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IN THE UNITED STATES DISTRICT COURT
IN AND FOR THE DISTRICT OF UTAH, CENTRAL DIVISION

EPILEPSY ASSOCIATION OF UTAH, a
Utah non-profit corporation; CHRISTINE
STENQUIST; DOUGLAS ARTHUR RICE;
TRUCE, a Utah non-profit corporation;
NATHAN KIZERIAN; SHALYCE
KIZERIAN; ANDREW TALBOT, M.D.,

Plaintiffs,

v.

GARY HERBERT, Governor of the State
of Utah, in his official capacity; JOSEPH
K. MINER, M.D., MSPH, Executive
Director, Utah Department of Health, in
his official capacity,

Defendants.

**DEFENDANTS' MOTION TO
DISMISS AMENDED COMPLAINT**

Case No. 2:19-cv-00360-DBP

Magistrate Judge Dustin B. Pead

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RELIEF SOUGHT AND GROUNDS FOR THIS MOTION

In accordance with [Federal Rules of Civil Procedure 12\(b\)\(1\) and 12\(b\)\(6\)](#), and District of Utah Local Rule of Practice 7-1, Defendants Governor Gary Herbert (“Gov. Herbert”) and Dr. Joseph K. Miner (“Dr. Miner”) move the Court to dismiss Plaintiffs’ First Amended Complaint (“FAC”).¹ The Court should dismiss the FAC (1) under [Rule 12\(b\)\(1\)](#) because no Plaintiff has standing to assert either of the two claims for relief in the FAC and (2) under [Rule 12\(b\)\(6\)](#) because Plaintiffs do not have a private right of action to assert their claims for relief and the claims fail as a matter of law.

INTRODUCTION

In December 2018, the Utah Legislature enacted House Bill 3001 (“H.B. 3001”), which amended a medical marijuana law adopted by ballot initiative known as Proposition 2 (“Prop. 2”). Plaintiffs prefer Prop. 2 to H.B. 3001, and they ask the Court to declare H.B. 3001 invalid and reinstate Prop. 2.

To challenge H.B. 3001, Plaintiffs must have standing and a valid cause of action. Plaintiffs have neither.

Plaintiffs do not have standing to assert the two claims for relief in the FAC. Plaintiffs do not have standing based on their status as sponsors of Prop. 2 and concerned taxpayers, as controlling precedent makes clear. It is also clear that no Plaintiff has suffered an injury in fact that can be traced to H.B. 3001 and be redressed by the declarations and orders Plaintiffs are seeking.

¹ [Doc. 9-6](#).

Although Plaintiffs allege H.B. 3001 narrows or eliminates statutory rights provided by Prop. 2 in several respects, these allegations do not show H.B. 3001 injured Plaintiffs. At best, these allegations show H.B. 3001 and Prop. 2 differ on paper, not that any Plaintiff was injured in fact. For the most part, Plaintiffs could not be injured in fact because, at the time Prop. 2 was amended by H.B. 3001, Plaintiffs could not exercise any of the supposedly more expansive rights provided by Prop. 2.

Plaintiffs could not exercise these rights because the medical marijuana processes and facilities authorized by Prop. 2 were not operational in the two days it was in effect. Under Prop. 2, the State was not required to begin accepting applications for licenses from private businesses to grow and distribute medical marijuana until 2020. And whether, when, and to what extent private businesses would successfully apply for licenses and begin operation is unknown and requires speculation.

Yet, Plaintiffs identify what they believe are two exceptions where they could exercise rights under Prop. 2 in the two days it was in effect. But Plaintiffs have not shown they were injured under these alleged exceptions.

The first alleged exception relies on the theory that Plaintiffs, as marijuana users, were injured by H.B. 3001's modification of Prop. 2's affirmative defense provision, which Plaintiffs contend was available to them in the two days Prop. 2 was in effect. But Plaintiffs have not alleged facts showing they qualified for Prop. 2's allegedly more expansive affirmative defense provision or that they intended to imminently engage in acts for which they faced a credible threat of prosecution and conviction absent the

affirmative defense. Without these factual predicates, Plaintiffs cannot show that modifying the provision caused them any injury.

The second alleged exception relies on the theory that H.B. 3001 restricts Plaintiff Dr. Andrew Talbott's ability to recommend marijuana as a treatment under Prop. 2. But Plaintiffs have not shown that H.B. 3001's allegedly greater restrictions injured Dr. Talbott. They do not allege, for instance, that Dr. Talbott had an actual patient to whom he would have recommended marijuana under Prop. 2 but didn't because of H.B. 3001's differences. Thus, no Plaintiff has standing to bring either of the two claims asserted in the FAC.

Even if Plaintiffs had established standing, Plaintiffs would also require a cause of action to challenge H.B. 3001. But Plaintiffs do not have one.

Plaintiffs' first claim for relief is based on the "legislative power" provision of the Utah Constitution. Plaintiffs contend this provision limits the Utah Legislature's power to amend a statute adopted by initiative, and the Utah Legislature violated this limitation when it amended Prop. 2 via H.B. 3001. Plaintiffs are mistaken.

As interpreted by the Utah Supreme Court, the "legislative power" provision gives the Utah Legislature and the people, through the initiative process, equal legislative power. This means the Utah Legislature has the power to amend and repeal laws adopted through the initiative process—just as it can amend and repeal laws passed by prior legislatures. So, the Utah Legislature acted within its power when it enacted H.B. 3001.

Plaintiffs' second claim for relief is based on federal laws and the Supremacy Clause. Plaintiffs claim the provisions of H.B. 3001 requiring the State to buy and distribute medical marijuana are preempted by the federal Controlled Substances Act ("CSA") and Drug-Free Workplace Act under the Supremacy Clause. But neither these federal laws nor the Supremacy Clause provides Plaintiffs a private right of action.²

Thus, the Court should dismiss Plaintiffs' claims.

BACKGROUND FACTS AND LAW

The Backdrop of Federal Law against which Prop. 2 and H.B. 3001 were Enacted

As of 2018, twenty-eight states and Washington, D.C. had legalized medical or recreational marijuana use. *Alpenglow Botanicals, LLC v. United States*, 894 F.3d 1187, 1192 (10th Cir. 2018). But marijuana continues to be classified as a schedule I "controlled substance" under the CSA. 21 U.S.C. § 812(c) (Schedule I) (c)(10); *Feinberg v. Comm'r of Internal Revenue*, 916 F.3d 1330, 1333 (10th Cir. 2019). And the CSA makes it generally unlawful to manufacture, distribute, or possess marijuana, 21 U.S.C. § 841(a)(1) (governing distribution and other activities), *id.* § 844 (governing simple possession), even for medical purposes, although some courts have interpreted section 841(a)(1) to "not apply to persons who regularly handle controlled substances in the course of their professional duties." *Smith v. Superior Court*, 28 Cal. App. 5th Supp. 1, 5-6 (2018).

But the CSA provides state officials limited immunity from prosecution. The CSA

² *Safe Streets All. v. Hickenlooper*, 859 F.3d 865, 902 (10th Cir. 2017) (holding that plaintiffs had no viable cause of action against a state and county to privately enforce CSA's alleged preemption of a Colorado constitutional amendment legalizing recreational marijuana).

provides in relevant part as follows:

Except as provided in §§ 2234 and 2235 of Title 18 [relating to illegal procurement and execution of search warrants], no civil or criminal liability shall be imposed by virtue of this subchapter . . . upon any duly authorized officer of any State, territory [or] political subdivision thereof . . . who shall be lawfully engaged in the enforcement of any law or municipal ordinance relating to controlled substances.

21 U.S.C. § 885(d).

There is a split of authority on whether [section 885\(d\)](#) provides immunity to state employees who distribute medical marijuana under state law. Compare [Smith](#), 28 Cal. App. 5th Supp. at 6 (stating police are immune from federal prosecution for returning seized medical marijuana under [section 885\(d\)](#)), [State v. Okun](#), 296 P.3d 998, 1001-02 (Ariz. Ct. App. 2013), cert. denied, 134 S. Ct. 1759, 188 L. Ed. 2d 592 (2014) (holding that [section 885\(d\)](#) would immunize police officer who returned marijuana improperly seized under state's medical marijuana law, even though act of returning it was arguably unlawful distribution under the CSA), and [State v. Kama](#), 39 P.3d 866, 867-68 (Or. Ct. App. 2002), with [People v. Crouse](#) 388 P.3d 39, 45 (Colo. 2017). The CSA does not provide a comparable immunity provision for private individuals, such as employees of private dispensaries.

Congress has also given the states some room to experiment with medical marijuana. In every appropriations bill since 2014, Congress has included a rider that has barred the Department of Justice (“DOJ”) from using appropriated funds to prevent various states, including Utah, “from implementing their own State laws that authorize the use, distribution, possession, or cultivation of medical marijuana.”

Gilmore, 886 F.3d 1288, 1290 (9th Cir. 2018). This rider is included in the current budget. See Consolidated Appropriations Act, 2019, § 537 (2019), available at <https://www.congress.gov/bill/116th-congress/house-bill/648/text>.

The Ninth Circuit has held that this rider “prohibits DOJ from spending funds from relevant appropriations acts for the prosecution of individuals who engaged in conduct permitted by the State Medical Marijuana Laws and who fully complied with such laws.” *United States v. McIntosh*, 833 F.3d 1163, 1177 (9th Cir. 2016). Although the DOJ argued the rider does not prevent it from “prosecuting private individuals,” it conceded the rider prevents it from “taking legal action against [a] state” that would prevent the state from giving practical effect to its medical marijuana laws. *Id.* at 1176.

In the area of federal taxation, private marijuana dispensaries face an additional impediment. The IRS consistently denies business deductions to private dispensaries because the internal revenue code prohibits any deduction or credit for any “business that consists of trafficking in controlled substances” under the CSA. *Alpenglow Botanicals, LLC v. United States*, 894 F.3d 1187, 1193 (10th Cir. 2018).

Thus, Prop. 2 (which relied on only private distribution of medical marijuana) and H.B. 3001 (which relies on both private and state distribution) were adopted against a backdrop of federal law that, despite its general prohibition against distributing marijuana, (i) provides potential immunity for distribution by state employees (but no immunity for private employees); (ii) includes a budget rider the DOJ has conceded prohibits it from taking action against a *state* (but not private individuals) that would prevent the state from giving effect to its medical marijuana laws; and (iii) denies

business deductions to private businesses distributing medical marijuana.

Overview of Prop. 2, H.B. 3001, and Plaintiffs' Allegations

Plaintiffs allege that, before Prop. 2, “[a]dvocates for the use of medical cannabis by patients ha[d] unsuccessfully attempted to pass several medical cannabis bills in Utah.” (FAC, ¶¶ 17-18). But Plaintiffs overlook at least one successful effort. In early 2018, the Utah Legislature passed House Bill 195, which allowed terminally-ill patients to use and obtain cannabis in medicinal form. [Utah Code § 58-85-103.5;](https://le.utah.gov/~2018/bills/static/HB0195.html#58-85-102)

[https://le.utah.gov/~2018/bills/static/HB0195.html#58-85-102.](https://le.utah.gov/~2018/bills/static/HB0195.html#58-85-102)

Believing the “Utah Legislature had refused to pass legislation providing for reasonable access to medical cannabis,” Plaintiffs Together for Responsible Use (“TRUCE”), Epilepsy Association of Utah (“EAU”), Christine Stenquist, and Douglas Rice, along with other unidentified persons, supported and campaigned for Prop. 2. (FAC, ¶ 18). Voters adopted Prop. 2 by a simple majority and it became effective on December 1, 2018. (FAC, ¶¶ 22-23).

Prop. 2 authorized private businesses to apply for licenses from the State to grow, test, and sell (dispense) medical cannabis. *See* Prop. 2, Exhibit A, § 4-41b-201, p. 50; § 4-41b-204, p. 51; § 26-60b-301, p. 59.³ And it authorized patients with a qualifying illness and a physician’s recommendation to obtain from the State a medical cannabis card with which they could buy cannabis from a licensed private dispensary. Prop. 2, § 26-60b-201, p. 57.

³ In paragraph 31 in the FAC, Plaintiffs refer to and quote from Exhibit A, which includes Prop. 2.

But Plaintiffs don't allege the system authorized by Prop. 2 was functioning in the two days it was in effect. Prop. 2 provided substantial time for start-up. That is, Prop. 2 did not require the State to begin accepting applications for (i) medical cannabis cards and dispensary licenses until March 1, 2020, *id.*; *id.* § 26-60b-301(8), p. 59, and (ii) licenses for cannabis production establishments (for the growing and processing of marijuana) until January 1, 2020. Prop. 2, § 4-41b-201(10), p. 50.

Although Plaintiffs allege Prop. 2 “provides that patients living more than 100 miles from a medical cannabis dispensary may grow their own cannabis plants,” (FAC, ¶ 35(c)), Plaintiffs do not mention that this grow-your-own provision would not take effect until January 1, 2021. Prop. 2, § 26-60b-201(6)(d), p. 57. And they do not allege that any of them could or would take advantage of this provision once it took effect.

Consistent with Prop. 2's built-in delays, Plaintiffs do not allege any private business applied for or obtained a license to act as a dispensary, or that any Plaintiff obtained a medical cannabis card or any medical marijuana from a licensed dispensary, or grew their own marijuana, under Prop. 2. Thus, although Plaintiffs allege that some of them have used marijuana for various conditions, (FAC, ¶¶ 8-10), they necessarily obtained their marijuana from a source outside the auspices of Prop. 2.

Plaintiffs identify only one provision of Prop. 2 that allegedly was available to them as users of marijuana “effective December 1, 2018”: its affirmative defense. (FAC, ¶ 35(e)). Plaintiffs allege the affirmative defense applied to an individual who “‘would be eligible for a medical cannabis card’ and [whose] ‘conduct would have been lawful, after July 1, 2020.’” (*Id.*); Prop. 2, § 58-37-3.7, p. 63. Based on this affirmative defense,

Plaintiffs contend that “[a]s of December 1, 2018, until the enactment of H.B. 3001 [two days later], under the Initiative Statute, [they were] free to acquire and use medicinal unprocessed cannabis flower [and various cannabis products] without fear of arrest and criminal conviction under state law.” (FAC, ¶¶ 36(c), 37(c), 38(c), 39(c)).

Plaintiffs also contend that Plaintiff Dr. Andrew Talbott as “of December 1, 2018” was “free to treat many of his patients, and prospective patients, with medical cannabis” for the two days Prop. 2 was in effect. (FAC, ¶ 40(b)); *see* Prop. 2, § 26-60b-107(4), p. 56 (stating a physician “may recommend cannabis to an individual under this chapter only in the course of a physician-patient relationship after the physician has completed a full assessment of the patient's condition and medical history.”).

On December 3, 2018, a supermajority of the Utah Legislature passed H.B. 3001, most of which went into effect on that date. (FAC, ¶¶ 27-28); *see* H.B. 3001, Exhibit B, available at <https://le.utah.gov/~2018s3/bills/static/HB3001.html#26-65-102>.

Plaintiffs allege H.B. 3001 “radically amend[ed]” Prop. 2, (FAC, ¶ 4), and further catalogue various ways in which they allegedly differ. (*Id.*, ¶¶ 34-35). These legal conclusions are not assumed true, and are generally disputed.⁴

But when Plaintiffs allege how they “suffer[] and will in the future suffer irreparable harm,” they base their allegations only on the following differences between Prop. 2 and H.B. 3001: (1) differences in the affirmative defense provisions, (2)

⁴ Plaintiffs don’t account for the ways H.B. 3001 broadens provisions of Prop. 2, including by allowing various medical providers besides physicians to recommend marijuana, [Utah Code § 26-61a-106\(2\)](#), and adds new provisions. *See e.g., id.* § 26-61a-502(2)(b) (allowing patients living more than 100 miles from dispensary to receive twice the normal supply).

differences in the physician recommendation provisions, and (3) the new provisions in H.B. 3001 providing for distribution by the State, through a state central fill, in addition to private entities. (FAC, ¶¶ 36-40).

Of relevance to Plaintiffs' aspirations to invalidate H.B. 3001 and reinstate Prop. 2, (FAC, Prayer for Relief, pp. 43-44), H.B. 3001 has severability clauses stating that if a court "invalid[ates] any provision of this title or this bill or the application of any provision of this title or this bill to any person or circumstance, the remaining provisions of this title and this bill remain effective without the invalidated provision or application." [Utah Code §§ 4-41a-106, 26-61a-114](#). And, in the event a "court enjoins or invalidates the operation of the state central fill medical cannabis pharmacy," three additional private dispensaries (pharmacies) are authorized. *Id.* § 26-61a-305(1)(b)(iv).

LEGAL STANDARD

Defendants move for dismissal under Rule 12(b)(1) for lack of standing and Rule 12(b)(6) for failure to state a claim. The same legal standard applies to Rule 12(b)(1) and Rule 12(b)(6) motions that challenge the sufficiency of the pleadings. [Muscogee](#)

[\(Creek\) Nation v. Okla. Tax Comm'n](#), 611 F.3d 1222, 1227 n.1 (10th Cir. 2010); *see also* [Garling v. United States Env'tl. Prot. Agency](#), 849 F.3d 1289, 1293 (10th Cir. 2017).

The applicable legal standard requires the complaint to contain sufficient factual matter, accepted as true, to state a claim to relief that is plausible on its face. [Ashcroft v. Iqbal](#), 556 U.S. 662, (2009).

In deciding a motion to dismiss, courts assume as true only the well-pleaded facts. [Iqbal](#), 556 U.S. at 678-79. But courts do not assume the truth of conclusory

assertions, labels, formulaic recitations of the elements of a claim, and legal conclusions, including legal conclusions couched as factual allegations. *Id.* at 678.

Although the well-pleaded facts are viewed in Plaintiffs' favor, the court "will not supply additional facts, nor will [it] construct a legal theory for plaintiff that assumes facts that have not been pleaded." *Dunn v. White*, 880 F.2d 1188, 1197 (10th Cir. 1989) (per curiam).

Both Rule 12(b)(1) and Rule 12(b)(6) allow the moving party to rely on materials outside the complaint in certain circumstances. Defendants set forth the Rule 12(b)(6) standard for extrinsic materials because it is narrower than the standard for Rule 12(b)(1) motions, and Defendants stay within the confines of the Rule 12(b)(6) standard. Under the standard for Rule 12(b)(6) motions, "if a plaintiff does not incorporate by reference or attach a document to its complaint, but the document is referred to in the complaint and is central to the plaintiff's claim, a defendant may submit an indisputably authentic copy to the court to be considered on a [Rule 12(b)(6)] motion to dismiss" without converting it to a motion for summary judgment. *GFF Corp. v. Associated Wholesale Grocers, Inc.*, 130 F.3d 1381, 1384 (10th Cir. 1997). And defendants may rely on matters of which a court may take judicial notice. *Berneike v. CitiMortgage, Inc.*, 708 F.3d 1141, 1146 (10th Cir. 2013).

SUPPORTING AUTHORITY AND ARGUMENT

I. PLAINTIFFS LACK STANDING, SO THE COURT LACKS JURISDICTION

Federal courts have only limited jurisdiction. Thus, "federal courts are under an independent obligation to examine their own jurisdiction, and standing is perhaps the

most important of [the jurisdictional] doctrines.” *United States v. Hays*, 515 U.S. 737, 742 (1995) (citation omitted). Standing is required for there to be a justiciable case or controversy under Article III of the U.S. Constitution. *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560 (1992).

Due to its central importance, standing should be addressed as a threshold matter. See *Wilderness Soc’y v. Kane Cty.*, 632 F.3d 1162, 1168 (10th Cir.2011). As the parties trying to invoke this Court’s limited jurisdiction, Plaintiffs have the burden to establish standing. *Lujan*, 504 U.S. at 561; see *Full Life Hospice, LLC v. Sebelius*, 709 F.3d 1012, 1016 (10th Cir. 2013). “A federal court is powerless to create its own jurisdiction by embellishing otherwise deficient allegations of standing.” *Whitmore v. Arkansas*, 495 U.S. 149, 155–56 (1990).

Because standing is “not dispensed in gross,” a plaintiff must demonstrate standing “for each claim he seeks to press and for each form of relief that is sought.” *Town of Chester v. Laroe Estates, Inc.*, 137 S. Ct. 1645, 1650 (2017) (citations omitted); *Davis v. Federal Election Comm’n*, 554 U.S. 724, 734 (2008); *City of Los Angeles v. Lyons*, 461 U.S. 95, 105–106 & n.7 (noting standing to seek damages differs from standing to pursue injunctive relief).

More specifically, for each claim and form of relief, Plaintiffs must show the have Article III standing and prudential standing. Article III standing requires the following:

First, the plaintiff must have suffered an “injury-in-fact,” [which is an] invasion of a legally-protected interest which is (a) concrete and particularized, and (b) “actual or imminent, not ‘conjectural’ or ‘hypothetical’.” Second, there must be a causal connection between the injury and conduct complained of—the injury has to be “fairly . . . trace[able] to

the challenged action of the defendant, and not th[e] result [of] the independent action of some third party not before the court.” Third, it must be “likely” as opposed to merely “speculative,” that the injury will be “redressed by a favorable decision.”

Lujan, 504 U.S. at 561 (citations omitted).

Prudential standing places limits on who may invoke the courts’ powers and requires that:

(1) the plaintiff generally must assert his or her own legal rights; (2) the court must refrain from adjudicating “generalized grievances” most appropriately addressed by one of the other branches of government; and (3) the plaintiff’s complaint must fall within the zone of interests to be protected or regulated by the statute or constitutional guarantee in question.

Mount Evans Co. v. Madigan, 14 F.3d 1444, 1450–51 (10th Cir. 1994); *Bd. of Cty.*

Comm’rs of Sweetwater Cty. v. Geringer, 297 F.3d 1108, 1112 (10th Cir. 2002).

To avoid dismissal at the pleadings stage, the complaint must include enough well-pleaded allegations of fact to demonstrate each element of Article III and prudential standing. See *Spokeo, Inc. v. Robins*, 136 S. Ct. 1540, 1547 (2016).

Plaintiffs seek prospective relief in their FAC. Thus, to satisfy the “injury in fact” element of Article III standing, the FAC must contain enough well-pleaded facts to plausibly show Plaintiffs are “suffering a continuing injury or [are] under a real and immediate threat of being injured in the future.” *Tandy v. City of Wichita*, 380 F.3d 1277, 1283 (10th Cir. 2004).

Where a plaintiff relies on a threatened injury, the injury must be “certainly impending” and not be attenuated or “contingent upon speculation or conjecture.” *Id.*

at 1283-84; *Whitmore v. Arkansas*, 495 U.S. 149, 158 (1990). Rather, the plaintiff must show he or she is “immediately in danger of sustaining some direct injury as the result of the challenged official conduct and the injury or threat of injury must be both real and immediate, not conjectural or hypothetical.” *Lyons*, 461 U.S. at 102.

Allegations of possible future harm or “injury at some indefinite future time” fail to show an injury-in-fact necessary to obtain prospective relief. *Whitmore*, 495 U.S. at 158; *Lujan*, 504 U.S. at 564 n.2. So do allegations based merely on “subjective apprehensions” that the defendant might act unlawfully. *Finstuen v. Crutcher*, 496 F.3d 1139, 1144 (10th Cir. 2007).

Although Plaintiffs have amended their complaint, the allegations in the FAC must demonstrate Plaintiffs had standing when they filed their original complaint on December 5, 2018, (Doc. 9-1), just two days after H.B. 3001 was enacted. *Southern Utah Wilderness Alliance v. Palma*, 707 F.3d 1143, 1152-53 (10th Cir. 2013). So, Plaintiffs had only a very narrow window to suffer an injury in fact.

Applying these principles, Plaintiffs have not established standing to assert their two claims for relief or obtain any of the requested prospective relief in the FAC.

1. No Standing Due to Sponsoring or Canvassing for Prop. 2

Plaintiffs do not have standing based on their pre-election activities in support of Prop. 2. Plaintiffs allege Stenquist and Rice were sponsors of the initiative application that led to Prop. 2 and “canvassed for petition signatures in support of Prop. 2, raised funds in support of Prop. 2,” and encouraged others to vote in support of Prop. 2, in Stenquist’s case “vigorously” and “for many months.” (FAC, ¶¶ 8, 9, 19, 20). Plaintiffs contend that TRUCE and EAU likewise canvassed the state and gathered numerous

validated signatures to help get Prop. 2 on the ballot. (*Id.*, ¶ 20). But these allegations do not provide Stenquist, Rice, TRUCE, or EAU standing to pursue prospective declaratory and injunctive relief in this case.

Stenquist and Rice do not have standing as a result of their status as alleged sponsors of Prop. 2. Once Prop. 2 was approved by the voters and became law, (FAC, ¶¶ 22-23), Stenquist and Rice had “no ‘personal stake’ in defending its enforcement that is distinguishable from the general interest of every citizen of” Utah. *Hollingsworth v. Perry*, 570 U.S. 693, 707 (2013) (holding that official proponents of initiative did not have standing to challenge order declaring a proposition unconstitutional). In other words, once Prop. 2 became law, its sponsors no longer had “a ‘particularized’ interest sufficient to create a case or controversy under Article III,” no matter how committed they may be to upholding Prop. 2 or how zealous their advocacy. *Id.*; *Arizonaans for Official English v. Arizona*, 520 U.S. 43, 65 (1997) (“Nor has this Court ever identified initiative proponents as Article–III–qualified defenders of the measures they advocated.”). Thus, Stenquist’s and Rice’s sponsorship of Prop. 2 does not create standing to raise a postelection challenge in defense of Prop. 2.

Likewise, the canvassing and other pre-election work done by Stenquist, Rice, TRUCE, and EAU in support of Prop. 2 do not give them standing to pursue prospective relief. *Hollingsworth*, 570 U.S. at 706-07 (denying standing to official proponents of proposition even though they “were responsible for collecting the signatures required to qualify the measure for the ballot” and had “control over the arguments in favor of the initiative that would appear in California’s ballot pamphlets.”). And, Plaintiffs have not

alleged their canvassing and other pre-election work constitute injuries that are continuing or will recur in the future, as is necessary to have standing to seek prospective relief. *Lyons*, 461 U.S. at 105 (holding plaintiff lacked standing based on past harm because he did not establish a real and immediate threat the alleged harm would recur).

2. No Standing Based on Taxpayer Status or Expenditure of Tax Dollars

Plaintiffs allege they are taxpayers and H.B. 3001 requires the illegal expenditure of tax dollars. More specifically, Plaintiffs allege that Stenquist, Rice, the Kizerians, and Dr. Talbott are state and county “taxpayer[s] and [are] opposed to illegal expenditures by the State of Utah and [their] County for the felonious marijuana distribution scheme required by H.B. 3001.” (FAC, ¶¶ 8-11; *see also id.* ¶¶ 36(i), 37(i), 38(i), 39(g), 40(e)). Similarly, they allege TRUCE’s and EAU’s members are taxpayers and are opposed to the allegedly illegal expenditures. (*Id.*, ¶ 38(i)). And, they further allege that “[s]ubstantial public funds have already been expended, and far more will be required in the future, to set up and operate the [allegedly] illegal state and local health department marijuana distribution scheme required under H.B. 3001.” (*Id.*, ¶¶ 36(i), 37(i), 38(i), 39(g), 40(e)). Under their second claim for relief (Preemption Challenge), Plaintiffs reiterate their status as taxpayers and concerns over the allegedly illegal expenditures of public monies on H.B. 3001’s “marijuana distribution scheme,” (*id.* ¶ 56), and ask the Court to enjoin these expenditures. (*Id.*, ¶ 57).

Plaintiffs’ status as taxpayers and their concerns over the expenditures of tax dollars do not provide standing to pursue the claims alleged or relief requested. A

“plaintiff who seeks to invoke the federal judicial power must assert more than just the generalized interest of all citizens in constitutional governance.” *Arizona Christian Sch. Tuition Org. v. Winn*, 563 U.S. 125, 132 (2011) (internal quotation omitted). For this reason, the Supreme Court adopted a “rule against taxpayer standing,” which rejects the “general proposition that an individual who has paid taxes has a continuing, legally cognizable interest in ensuring that those funds are not used by the Government in a way that violates the Constitution.” *Id.* at 134 (internal quotation omitted); *Valley Forge Christian College v. Americans United for Separation of Church and State, Inc.*, 454 U.S. 464, 477 (1982) (“[T]he expenditure of public funds in an allegedly unconstitutional manner is not an injury sufficient to confer standing, even though the plaintiff contributes to the public coffers as a taxpayer.”); *DaimlerChrysler Corp. v. Cuno*, 547 U.S. 332, 347 (2006) (holding state taxpayers lacked standing to challenge award of state tax credit to manufacturer on Commerce Clause grounds, and noting taxpayer suits have only been permitted under the Establishment Clause of the U.S. Constitution).

Under this precedent, Plaintiffs have not suffered an injury in fact required for standing “based on the asserted effect of [an] allegedly illegal activity on public revenues, to which the taxpayer contributes.” *DaimlerChrysler*, 547 U.S. at 344. Thus, Plaintiffs do not have standing, as taxpayers, based on the expenditures of public monies on H.B. 3001’s allegedly illegal marijuana distribution mechanism.

3. No Standing Based on Alleged Possible Forfeiture of Federal Grants

For similar reasons, Plaintiffs do not have standing based on allegations that they are “concerned about the consequences to state and local governments, including the forfeiture of millions of dollars in federal grants, because of the violations of the CSA and the Drug-Free Workplace Act mandated by H.B. 3001.” (FAC, ¶¶ 36(h), 37(h), 38(h), 39(f), 40(d)). At best, these allegations assert nothing more than a “generalized interest of all citizens” in federal grants, not any particularized injury that distinguishes Plaintiffs from the general public. *Winn, 563 U.S. at 132, supra*. That is not enough to establish standing. *Id.*

Plaintiffs only vaguely allege “consequences to state and local governments” as a result of the alleged forfeiture of federal grants, but no consequences, let alone injury, to themselves personally. By not alleging any Plaintiff has suffered an injury in fact, Plaintiffs have failed to show they have standing based on a possible (and speculative) loss of federal grants.

4. Plaintiffs Lack Standing to Challenge the State Distribution Provisions of H.B. 3001

Likewise, Plaintiffs lack standing to assert their second claim for relief (“Preemption Claim”), in which they challenge, on preemption grounds, the provisions of H.B. 3001 that allegedly require a “state central fill” and local health departments to, among other things, purchase, possess, and distribute medical marijuana (“State Distribution Provisions”). (FAC, ¶¶ 53-58; *id.* p. 2, ¶ (2)). To have standing to challenge the State Distribution Provisions, Plaintiffs must show they face a concrete, particularized and imminent injury-in-fact that is fairly traceable to the enforcement of

these provisions by Defendants and would be redressed by the requested relief. *Lujan*, 504 U.S. at 561. But Plaintiffs have not made this showing.

Plaintiffs have not alleged facts plausibly showing they have suffered or imminently will suffer any concrete and particularized injuries that are traceable to the activities of the “state central fill” and local health departments under H.B. 3001. Plaintiffs have not even alleged that the “central fill” is established and operational, or that central fill and health departments currently (or imminently will) purchase, possesses, or distribute marijuana. Plaintiffs’ failure to plead these essential facts is not surprising: the deadline to establish the central fill is not until July 1, 2020. *Utah Code § 26-61a-601(1)*. By not pleading facts showing the State is engaged in the alleged injury-causing activities, Plaintiffs have failed to show they have suffered an injury in fact.

Even more fundamentally, Plaintiffs have not alleged facts plausibly showing they suffer or will suffer any particularized harm or injury by the State’s purchase, possession, and distribution of medical marijuana. The purchase, possession, and distribution of medical marijuana, by themselves, manifestly does not harm or injure Plaintiffs. To the contrary, Plaintiffs are proponents of medical marijuana, (FAC, ¶¶ 6-11), who support the “establishment of *private facilities* to grow, process, test, and sell medical cannabis.” (FAC, ¶¶ 2) (emphasis added). Thus, to demonstrate standing, Plaintiffs must show the same marijuana-related activities that are non-injurious and beneficial to them when performed by private entities are somehow injurious and harmful to them when performed by government entities. Plaintiffs have failed to do so.

Plaintiffs fail to establish standing by alleging they have “deep concerns about the lack of access to medical cannabis that is nearly certain to occur because of the reliance under H.B. 3001 on felonious acts required of the State of Utah and local health departments, as well as their employees and contractors.” (FAC, ¶¶ 36(h), 37(h), 38(h)).⁵ This speculative allegation does not demonstrate Plaintiffs have suffered an actual or face an imminent injury-in-fact.

To the contrary, Plaintiffs’ subjective “concerns” about lack of access or reduced access to medical cannabis at some indeterminate future date are based on conjecture and speculation. *See Lyons*, 461 U.S. at 107 n.8 (stating “subjective apprehensions” that injury-causing event will occur in the future does not establish standing to obtain prospective relief). According to Plaintiffs, their concerns arise because H.B. 3001 will require government actors to engage in “felonious acts” to make medical cannabis available to qualifying individuals. (*See, e.g.*, FAC, ¶ 36(h))

But absent from the FAC are allegations plausibly showing a causal nexus between Plaintiffs’ alleged lack of access to medical marijuana and the “felonious acts.”

That is, Plaintiffs have not explained why or how the alleged “felonious” nature of the acts required by H.B. 3001 has caused or imminently will cause Plaintiffs to experience a lack of access to medical marijuana. Thus, Plaintiffs have not satisfied the causation (traceability) element of standing.

⁵ The alleged “felonious acts” are the participation “in the purchase, sale, transportation, storage, and distribution of marijuana, a federal felony.” (FAC, ¶ 36(h)).

Equally fatal to standing, Plaintiffs have not alleged facts showing any of the alleged felonious acts on which their “concerns” are based were occurring or imminently about to occur when Plaintiffs filed their original complaint in December 2018. *Tandy*, 380 F.3d at 1284 (“Standing must be analyzed from the facts as they existed at the time the complaint was filed.”).

Plaintiffs’ concerns over marijuana access are speculative for the additional reason that H.B. 3001 will not rely only on government actors to make medical marijuana available in the future. H.B. 3001 relies on a “belt and suspenders” hybrid approach involving both state and private distribution channels operating independently. As Plaintiffs recognize, in addition to the government distribution channel, H.B. 3001 provides for “up to 7 private ‘medical cannabis pharmacies’” and “up to 3 additional private ‘medical cannabis pharmacies’ if the state central fill medical cannabis pharmacy is not operational by certain dates.” (FAC, ¶ 34(b) (emphasis added)).

And, even if one indulges in speculation and assumes the “state central fill” may somehow be rendered inoperable or ceases operation at some indeterminate future date, this contingency is addressed by H.B. 3001. *Utah Code § 26-61a-305(1)(b)(iv)* (requiring the State to issue up to three additional licenses for private dispensaries (pharmacies) if the state central fill is not operational or ceases operation by certain dates or “if a final order of a court enjoins or invalidates the operation of the state central fill medical cannabis pharmacy.”). The addition of three private dispensaries would mean there’d be as many as ten private dispensaries if the state central fill ceases

operation. *Id.* § 26-61a-305(1). Plaintiffs have not shown they would not have access to medical marijuana through these private dispensaries if the state central fill ceases operation, and any attempt to do so would require speculation.

Besides, Plaintiffs have not alleged facts plausibly showing there exists any actual or imminent threat to the government distribution system that has yet to be implemented. For instance, Plaintiffs have not alleged the DOJ has threatened to take legal action against the state distribution system when it becomes operational at some indefinite time in the future. And such legal action by the DOJ is not plausible due to Congress's budget rider. *See, supra*, pp. 6-7 (discussing budget rider).

Because Plaintiffs have not alleged facts plausibly showing they will not have access to medical marijuana from either the private or government distribution channels under H.B. 3001, their alleged concerns over lack of access to medical marijuana are speculative and conjectural. It may turn out that Plaintiffs will have *convenient* access to medical marijuana, depending on where the private dispensaries are eventually located.

Even if Plaintiffs' "concerns about lack of access to medical cannabis" qualified as an injury-in-fact (and they do not), it would not be redressed by the declaratory and injunctive relief Plaintiffs are seeking. Declaring H.B. 3001 preempted and invalid, and enjoining its enforcement, as Plaintiffs request, will not redress concerns over lack of

access.⁶ It will exacerbate those concerns because H.B. 3001 is designed to provide access to medical cannabis.

The other relief requested by Plaintiffs will not redress their injury in fact. Requiring Defendant to enforce and give effect to Prop. 2, as Plaintiffs also request, will not redress their alleged injury. Plaintiffs’ alleged “injury”—concerns over lack of access to medical marijuana—arises, they say, because purchasing, selling, distributing, etc., medical marijuana is felonious. But this alleged “injury” will persist if Prop. 2 is reinstated because Prop. 2 relies on felonious acts, performed by private parties—with no immunity and, in the DOJ’s view, no budget-rider protection from federal CSA enforcement—to make medical cannabis available to end users. (FAC, ¶ 2); [21 U.S.C. § 841\(a\)\(1\)](#).

Here, the alleged possible future injury—lack of access to medical marijuana at some indeterminate future date—is a “speculative prediction” that fails to establish standing. [West v. Holder](#), 60 F. Supp. 3d 197, 201 (D.D.C. 2015) (rejecting as a “speculative prediction” the allegation that a Department of Justice policy “will . . . make medical patients’ . . . access to cannabis difficult or non-existent and more expensive.”). And Plaintiffs’ conclusory allegation that the future injury is “nearly certain to occur” is merely “unadorned speculation.” See [id.](#) (holding the alleged future injury was speculative even though plaintiff alleged the injury “will” occur); [Whitmore](#), 495 U.S.

⁶ As noted earlier, H.B. 3001 has severability clauses and contingency provisions that must be applied if the state central fill provisions are declared invalid. See, *supra*, pp. 10, 21. Thus, the State does not agree Prop. 2 should be restored if the central fill provisions are invalidated.

149 at 158 (noting that Supreme Court had “rejected a physician's attempt to defend a state law restricting abortions, because his complaint that fewer abortions would lead to more paying patients was ‘unadorned speculation’ insufficient to invoke the federal judicial power.”) (emphasis added).

Likewise, Plaintiffs’ allegations do not demonstrate the alleged injury is imminent. Allegations of possible future injuries do not establish standing, especially where, as here, Plaintiffs do not allege facts demonstrating the future injuries are “certainly impending.” Rather, the potential future injury hypothetically might result, if at all, at some unknown future date, as a result of actions of federal law enforcement officials against the “felonious acts” allegedly required by H.B. 3001 (which acts have not yet begun).

But any theory dependent on future actions of unknown third-party federal law enforcement officials does not establish standing to challenge H.B. 3001 and obtain prospective relief against the state officials named as defendants in this case. *See Lujan, 504 U.S. at 560* (stating that, for purposes of establishing standing, the injury must not be the result of independent action of a third party not before the court). The question of whether federal law enforcement will exercise its discretion to target and prosecute the alleged “felonious acts” is far too speculative to establish standing, *Clapper v. Amnesty Int’l USA, 568 U.S. 398, 413 (2013)* (stating “we have been reluctant to endorse standing theories that require guesswork as to how independent decisionmakers will exercise their judgment”), especially given Congress’s practice of enacting budget riders that prohibit the DOJ from spending federal funds to interfere with states’

implementation of their medical marijuana laws. And, it is even more speculative to assume any future federal enforcement action against the state distribution mechanism would succeed. *Id.* at 414 (stating it “is just not possible for a litigant to prove in advance that the judicial system will lead to any particular result in his case.”) (citation omitted). Thus, Plaintiffs’ standing theory relies on an attenuated and speculative chain of possibilities, which fails as a matter of law. *Id.* at 410.

5. Plaintiffs’ Allegations that H.B. 3001 Provides Fewer Rights than Prop. 2 do not Establish Standing

Plaintiffs have not demonstrated they have standing to challenge H.B. 3001 or any of its provisions, based on their allegations that H.B. 3001 allegedly provides them fewer rights and privileges than Prop. 2. These allegations are legal conclusions that the Court cannot assume true in deciding this motion.

Although Plaintiffs allege various ways Prop. 2 and H.B. 3001 differ, (FAC, ¶¶ 34-35), highlighting how they differ on paper does not demonstrate that any Plaintiff suffered a real, concrete, and particularized injury as a result of the passage of H.B. 3001. In general, these differences could not affect or injure Plaintiffs because the medical marijuana system authorized by Prop. 2 was not operational in the two days before H.B. 3001 went into effect. Prop. 2 did not require the State to begin accepting applications for (i) medical cannabis cards and dispensary licenses until March 1, 2020, Prop. 2 § 26-60b-301(8), p. 59, or (ii) licenses for cannabis production establishments (for the growing and processing of marijuana) until January 1, 2020, Prop. 2 § 4-41b-201(10), p. 50.

Thus, Plaintiffs have not alleged that, in the two days Prop. 2 was in effect, they exercised any of the rights or received any benefits that are allegedly provided by Prop. 2. For instance, Plaintiffs do not allege they obtained a “medical card” and with it acquired (or had taken concrete steps to acquire) medical marijuana from a private dispensary established under Prop. 2 in an amount or form not available under H.B. 3001. They could not allege facts sufficient to establish standing because the privatized system on which Prop. 2 depended to “grow, process, test, and sell medical cannabis” had not been established. Thus, enacting H.B. 3001 did not result in a concrete and particularized injury to any Plaintiff.

But, according to Plaintiffs, there are two exceptions where they could exercise rights under Prop. 2 “[a]s of December 1, 2018”: through (1) its affirmative defense provision, (FAC, ¶ 35(e)) and (2) its physician recommendation provision, (*id.*, ¶ 40(b)). Plaintiffs allegations of harm are based on the H.B. 3001’s alleged changes to these provisions. In particular, Plaintiffs contend H.B. 3001’s changes to Prop. 2’s (1) affirmative defense provision harmed Stenquist, Rice, and the Kizerians as users of medical marijuana (FAC, ¶¶ 36(c)-36(d), 37(c)-37(d)) and (2) physician recommendation provision harmed Dr. Talbott, (FAC, ¶¶ 40(b)-(c)). But Plaintiffs do not allege they actually exercised these rights.

Plaintiffs’ allegations about the changes to the affirmative defense and patient recommendation provisions do not establish standing. These allegations rely on the theory that Plaintiffs suffered harm “[a]s a result of the passage of H.B. 3001.” (FAC, ¶¶ 36-40).

But, when a statute is amended to provide fewer rights than previously provided under the statute, a person does not suffer a legal injury unless the amended statute is applied retroactively to impair rights that had vested under the original statute.

Retroactive application of a new or amended law to past transactions or circumstances may injure a person. *See generally Vartelas v. Holder*, 566 U.S. 257, 266 (2012) (noting presumption against retroactive legislation arose because retroactive application of law could take away or impair vested rights acquired under then-existing laws, or create new a new obligation or duty, or attach a new disability, “in respect to transactions or considerations already past.”). Conversely, a person does not suffer a legal injury when an amended statute is applied to transactions or circumstances that did not accrue until after the effective date the amendment. *See Payne v. Myers*, 743 P.2d 186, 190 (Utah 1987) (holding that granting summary judgment based on statutory amendment that added governmental immunity for simple negligence did not impair plaintiffs’ vested right in cause of action because action did not accrue until after effective date of the amendment.).

Thus, when a plaintiff fails to show a new or amended statute was applied retroactively to impair a right that had vested under prior law, the plaintiff does not suffer an injury-in-fact simply because the new or amended statute confers fewer rights or imposes greater duties than prior law. *Compare Palmieri v. Town of Babylon*, 2008 WL 1994996 (2d Cir. May 7, 2008) (unpublished) (holding plaintiff did not suffer an injury in fact and therefore lacked standing to challenge rental permit law (“RPL”) because “he purchased the Property after the RPL was passed, had notice of the

requirements of the RPL, and failed to comply with them. It was his voluntary failure to comply with the RPL that caused his injury, not the RPL itself.”), with *McCall v. Dretke*, 390 F.3d 358, 361, 362 (5th Cir. 2004) (holding the injury-in-fact requirement of standing was met because the harm asserted by prisoner “is the allegedly *ex post facto* application” of new statute that entitled prisoner to supervised release only at the discretion of the parole board when prisoner was automatically entitled to supervised release under prior law).

Further, it is apparent these allegations do not establish standing to bring Plaintiffs’ second claim for relief, in which they challenge, on preemption grounds, the provisions of H.B. 3001 that require a “state central fill” and “local health departments” to distribute medical marijuana. Plaintiffs lack standing to bring this claim because they have not shown their claimed injuries are fairly traceable to the provisions (“central fill provisions”) of H.B. 3001 that define the responsibilities of the “state central fill” and local health departments. See *DaimlerChrysler*, 547 U.S. at 353 (holding plaintiff’s injury caused by a municipal taxing scheme did not give it standing to challenge a state tax scheme that did not injure it); *Chamber of Commerce v. Edmondson*, 594 F.3d 742 (10th Cir. 2010) (separately analyzing plaintiff’s standing to challenge each provision at issue). Plaintiffs do not allege that H.B. 3001’s central fill provisions limited the affirmative defense that was available to Plaintiffs under Prop. 2, or the number of patients to whom Dr. Talbott may recommend medical cannabis.

As shown below, there are additional reasons why Plaintiffs do not have standing based on the changes to the affirmative defense and physician recommendation provisions.

a. No Standing Based on Changes to the Affirmative Defense Provision

The affirmative defense provisions of Prop. 2 and H.B. 3001 provide some protection from state criminal liability to individuals who acquire medical marijuana on their own, from sources they identify, during the interim period before their respective medical marijuana distribution systems are operational. Plaintiffs allege they are suffering continuing harm because H.B. 3001's affirmative defense provisions provide less protection than Prop. 2's did. (FAC, ¶¶ 36(c)-(d), 37(c)-(d), 38(c)-(d) 39(c)-(d)).

These allegations fail to demonstrate standing. Plaintiffs allege that for two days while Prop. 2 was in effect they were “free” to acquire and use various types of cannabis products “without fear of arrest and criminal conviction under state law.” (FAC, ¶¶ 36(c), 37(c), 38(c), 39(d)). But being “free” to do something is not the same as actually doing it. Plaintiffs have not pled facts showing they had an intention and concrete plans to imminently engage in conduct for which they would have had an affirmative defense under Prop. 2, but now do not have one under H.B. 3001. *Cf. Colorado Outfitters Ass'n v. Hickenlooper*, 823 F.3d 537, 551 (10th Cir. 2016) (“Because Dahlberg expressed no concrete plans to engage in conduct that had any potential to violate [the statute], she failed to demonstrate an imminent injury for purposes of mounting a pre-enforcement challenge to that statute.”).

To the contrary, Plaintiffs' allegations of “harm” are hypothetical in nature. Plaintiffs hypothesize that “by reason of the passage of H.B. 3001,” Stenquist faces, and

will continue to face, the **possibility** of arrest and criminal conviction **under state law** (1) **if she chooses** to acquire or use medicinal unprocessed cannabis flower or (2) **if she chooses** to acquire or use medicinal cannabis wax or resin but is unable to” meet H.B. 3001’s conditions.” (FAC, ¶ 36(d)). Similarly, Plaintiffs allege the Kizerians and other plaintiffs face only a mere *possibility* of arrest and conviction (traceable to “state [criminal] law,” not H.B. 3001) that arises only “if” the person elects to engage in conduct allegedly not immune under H.B. 3001. (FAC, ¶¶ 37(d), 38(d), 39(d)).

Allegations such as these of **possible** future harm where that mere possibility does not arise unless and until a choice is made, if at all, at some indeterminate future date are not sufficient to establish standing. *Clapper* 568 U.S. at 409 (stating “we have repeatedly reiterated that ‘threatened injury must be **certainly impending** to constitute injury in fact,’ and that ‘[a]llegations of possible future injury’ are not sufficient.”) (emphasis added); *Lujan*, 504 U.S. at 564 (holding that “‘some day’ intentions—without any description of concrete plans, or indeed even any specification of *when* the some day will be—do not support a finding of the ‘actual or imminent’ injury that our cases require.”).

And, Plaintiffs trace the theoretical possibility of harm to “state law,” presumably state criminal law, not the affirmative defense provisions of H.B. 3001 that provide a limited exception to state criminal law. Thus, Plaintiffs have failed to satisfy the traceability element of standing. *Paramount Media Grp., Inc. v. Vill. of Bellwood*, No. 13 C 3994, 2017 WL 590281, at *7 (N.D. Ill. Feb. 14, 2017) (unpublished) (“Returning to the issue of traceability, the Court concludes that although *Paramount* challenges both

the billboard ban and the exception, it has not shown that its alleged injury is traceable to the exception. Prior to the amendment of the sign ordinance in 2012, Paramount was unable to build a billboard on the Sodhi Property, and that is due to the 2009 ban on off-site advertising.”).

Further, the Court should not accept as true Plaintiffs’ legal conclusion that, under Prop. 2, they were free to acquire and use unprocessed cannabis flower and other cannabis products without fear of arrest and conviction under state law. It is not true. As Plaintiffs admit, Prop. 2 provided only an “affirmative defense” to criminal charges. (FAC, ¶ 35(e)); Prop. 2 § 58-37-3.7, p. 63. An affirmative defense does not remove fears of an arrest for possession of marijuana. *Cf. Barwick v. Behnke*, 548 F. App’x 516, 520 (10th Cir. 2013) (unpublished) (“The potential availability of an affirmative defense . . . does not undermine the district court’s finding that the Officers had probable cause to arrest Barwick.”); *People v. Mendez*, 948 P.2d 105, 108 (Colo. Ct. App.1997) (stating “the legal use of marihuana is an affirmative defense and has no direct relevance to a police officer’s initial determination of probable cause.”), *aff’d*, 986 P.2d 275 (Colo.1999)).

Likewise, Plaintiffs have not alleged facts showing they would be protected from conviction by Prop. 2’s affirmative defense provision. Under that provision, before July 1, 2020, a person had an affirmative defense to state criminal charges only if the “individual would be eligible for a medical cannabis card, and [if] the individuals conduct would have been lawful, after July 1, 2020.” Prop. 2 § 58-37-3.7(1), p. 63. To be eligible for a medical cannabis card under Prop. 2 required, among other things, that

“treatment with medical cannabis has been recommended by the individual's physician” who, in making the recommendation, states the individual suffers from a qualifying illness and may benefit from treatment by cannabis or a cannabis product. *Id.* § 26-60b-201(2) & (4). But no Plaintiff has alleged his or her physician recommended treatment with medical cannabis or confirmed they suffer from a qualifying illness that may benefit from treatment by cannabis. Without a physician's recommendation, Plaintiffs would not be eligible for a medical cannabis card, which in turn means Plaintiffs could not rely on Prop. 2's affirmative defense. Thus, Plaintiffs have not shown they would have been protected from conviction under Prop. 2.

Plaintiffs also have not demonstrated they could rely on Prop. 2's affirmative defense because they have not shown their “conduct would have been lawful[] after July 1, 2020.” Prop. 2, § 58-37-3.7(1), p. 63. Plaintiffs' allegations that they “were free to acquire and use” unprocessed cannabis flower and other cannabis products without fear of conviction under state law are legally incorrect and demonstrate that Plaintiffs are laboring under a misconception about the breadth of Prop. 2's affirmative defense provision.

Under Prop. 2, it was not lawful before or after July 1, 2020 to “possess more than four ounces of unprocessed cannabis,” Prop. 2, § 26-60b-204(1)(c), use cannabis in public view except in a medical emergency, *id.* § 26-60b-204(2), or smoke cannabis, *id.* § 58-37-3.6b(4). Plaintiffs have not alleged they conformed to all these legal limits, as is necessary to rely on Prop. 2's affirmative defense. Rather, their unqualified allegation

that they were “free to acquire and use” unprocessed cannabis flower and other cannabis products indicates they believed there were no quantity or use restrictions.

Thus, for purposes of establishing whether Plaintiffs have standing, it is not enough that H.B. 3001’s affirmative defense may appear more restrictive in some respects than Prop. 2’s. Plaintiffs did not suffer an injury in fact from the passage of H.B. 3001’s allegedly more restrictive affirmative defense unless, among other things, Prop. 2’s affirmative defense applied to Plaintiffs’ marijuana usage. But Plaintiffs have not shown that it did.

b. Dr. Talbott Does Not Have Standing Based on Changes to Physician Recommendation Provision

Likewise, Plaintiffs have not alleged facts showing Dr. Talbott has suffered an injury-in-fact that is traceable to Defendants and redressable by Plaintiffs’ requested relief. Plaintiffs allege that under Prop. 2, “Dr. Talbott was not restricted regarding the number of patients for whom he could recommend medical cannabis” but under H.B. 3001 he is “limited in the number of patients for whom he can recommend medical cannabis.” (FAC, ¶ 11). But Plaintiffs have not alleged facts showing H.B. 3001’s limit on the patient recommendations has injured or imminently will injure Dr. Talbott.

Under H.B. 3001, qualified medical providers generally may recommend medical marijuana to up to 175 of their patients at the same time. [Utah Code § 26-61a-106\(4\)\(a\)](#). But for physicians who are board-certified in anesthesiology and other specialties, the patient limit is 300. [Id. § 26-61a-106\(4\)\(b\)](#). And physicians can petition the State for authorization to exceed these limits in increments of 100, up to 300 additional patients. [Id. § 26-61a-106\(4\)\(c\)\(i\)](#).

Dr. Talbott has not shown he has been injured by H.B. 3001's patient limits because he has not alleged facts showing he has reached or imminently will reach the applicable limit. He has not alleged he has made even a single recommendation that counts against the applicable limit. And, besides, he has not alleged that recommending marijuana profits or otherwise benefits him personally, as is necessary to demonstrate H.B. 3001's limits on patient recommendations could theoretically injure him.

Although Dr. Talbott alleges he has a First Amendment right to recommend cannabis as a treatment, (FAC, ¶ 11), neither of Plaintiffs' claims for relief is based on the First Amendment. And, again, he has not reached H.B. 3001's recommendation limit. So even if he has a First Amendment right to recommend cannabis for purposes of H.B. 3001, it has not been violated. Besides, a physician's alleged First Amendment right to recommend cannabis does not mean the State is forced to act upon his or her recommendation and issue a medical card after the physician reaches the limits in H.B. 3001. Dr. Talbott does not allege he'd be subject to sanctions if he continues to recommend cannabis after he exceeds H.B. 3001's limits, if ever. The State would just stop issuing marijuana cards based on Dr. Talbott's recommendation, as is its right.

Further, Plaintiffs have not shown Dr. Talbott has been injured by H.B. 3001's requirement that either he *or a pharmacist* set "dosing parameters" for the patients for whom Dr. Talbott recommends medical marijuana. (FAC, ¶ 11). Thus, H.B. 3001 does not require Dr. Talbott to set the dosing parameters (a pharmacist can do so), and he has not alleged he intends and has "concrete plans" to exercise the option of setting dosing parameters himself.

Even if Dr. Talbott had alleged he has concrete plans to set the dosing parameters himself, that would not establish an injury in fact. According to Plaintiffs, setting the dosing parameters merely “*could* be construed under federal law to be a ‘prescription,’ threatening Talbott’s” license to prescribe controlled substances. (FAC, ¶ 12) (emphasis added). This allegation does not show Dr. Talbott faces a credible threat of an enforcement action against his license. Plaintiffs have not alleged that setting dosing parameters constitutes a prescription on the face of the unidentified federal law. And Dr. Talbott has not alleged that officials charged with enforcing the federal law have informed him they consider setting dosing parameters to be an unlawful prescription for which he could be sanctioned. *Cf. Cressman v. Thompson*, 719 F.3d 1139, 1142-43, 1145 (10th Cir. 2013) (holding the threat of prosecution was credible where state officials had informed plaintiff he could be prosecuted for disobeying the challenged statute).

In any event, even if Dr. Talbott had been injured by H.B. 3001’s limits on patient recommendations and its alleged dosing parameter requirement, he would not have standing to challenge its provisions requiring a state central fill and local health departments to possess and distribute medical marijuana, since he does not allege facts showing his claimed injuries are traceable to these provisions. Thus, Dr. Talbott lacks standing to bring the second claim for relief, which challenges the state central fill and local health department provisions. (FAC, ¶¶ 53-58).

6. TRUCE and EAU Lack Standing

The corporate defendants, TRUCE and EAU also lack standing. TRUCE and EAU lack standing in their own right because they have not alleged facts showing they have suffered any injury-in-fact that is traceable to Defendants’ enforcement of H.B. 3001.

As shown previously, their alleged pre-election activities in support of Proposition 2 do not give them standing.

And, they lack associational standing. To have associational standing, “an organization suing as a representative [must] include at least one member with standing to present, in his or her own right, the claim (or the type of claim) pleaded by the association.” *United Food and Commercial Workers Union Local 751 v. Brown Group, Inc.*, 517 U.S. 544, 555 (1996). But the only members of TRUCE and EAU who are included in this lawsuit are Stenquist and Rice, and they lack standing, as shown above. Thus, TRUCE and EAU lack organizational standing. *Summers v. Earth Island Inst.*, 555 U.S. 488, 498 (2009) (stating “plaintiff-organizations [must] make specific allegations establishing that at least one identified member had suffered or would suffer harm.”); *Access 4 All, Inc. v. Smith’s Food & Drug Centers, Inc.*, No. 2:16-CV-00475-JNP, 2017 WL 3484921, at *4 (D. Utah Aug. 14, 2017) (unpublished) (“Since Mr. Peterson is the only purported member of *Access 4 All* identified in the complaint,” but he is not actually a member, “the organization lacks associational standing.”).

II. PLAINTIFFS FAIL TO STATE A VALID CLAIM BASED ON THE ENACTMENT OF H.B. 3001

In their first claim for relief, Plaintiffs allege [Article VI, Section 1 of the “Utah Constitution](#) prohibits the Utah Legislature from materially undermining, by repeal or amendment, the core purposes of legislation passed through the initiative process.” (FAC, ¶¶ 49-50). Plaintiffs claim the Legislature violated [Article VI, section 1 of the Utah Constitution](#) when it enacted H.B. 3001. (*Id.*, ¶ 51). But [Article VI, Section 1](#) does not limit the Utah legislature’s power to amend a statute adopted by initiative.

The plain language of [Article VI, section 1](#) does not place any limits on the Legislature’s power to repeal or amend a law, including a law passed through the initiative process. *Univ. of Utah v. Shurtleff*, 2006 UT 51, ¶ 30, 144 P.3d 1109, 1117 (“The cardinal rule of constitutional interpretation is to begin with the plain language of the provision in question.”). [Article VI, section 1](#) states, in relevant part, as follows:

(1) The Legislative power of the State shall be vested in:

- (a) a Senate and House of Representatives which shall be designated the Legislature of the State of Utah; and
- (b) the people of the State of Utah as provided in Subsection (2).

(2)(a)(i) The legal voters of the State of Utah, in the numbers, under the conditions, in the manner, and within the time provided by statute, may:

- (A) initiate any desired legislation and cause it to be submitted to the people for adoption upon a majority vote of those voting on the legislation, as provided by statute; or
- (B) require any law passed by the Legislature, except those laws passed by a two-thirds vote of the members elected to each house of the Legislature, to be submitted to the voters of the State, as provided by statute, before the law may take effect.

[Utah Const. art. VI, § 1.](#)

Thus, [Article VI, section 1](#) states the “Legislative power” is vested in both the Utah Legislature and the people (through the initiative and referendum process). [Utah Const. art. VI, §§ 1, 2.](#) But it does not contain any language prohibiting the Legislature from materially changing laws passed through the initiative process. Contrary to Plaintiffs’

allegations, (FAC, ¶¶ 49-50), Article VI, section 1 does not contain the words “prohibit,” “materially undermining,” or “core purposes.”

Likewise, Utah appellate courts have not interpreted [Article VI, section 1](#) to prohibit the Legislature from materially changing laws passed through the initiative process. Rather, the Utah Supreme Court has interpreted it to mean the Legislature’s and the people’s legislative power are co-equal, parallel, coextensive, concurrent and share equal dignity. *See, e.g., Carter v. Lehi City*, 2012 UT 2, ¶¶ 22, 27, 269 P.3d 141; *Gallivan v. Walker*, 2002 UT 89, ¶ 23, 54 P.3d 1069.

So, because the Utah Legislature can amend the laws it enacts, it follows under the equal-dignity principle that the Legislature can amend laws enacted through the initiative process too. In other words, because the “initiative power is parallel to the legislature’s power,” the “*laws proposed and enacted by the people under the initiative power . . . are subject to the same constitutional limitations as other statutes, and may be amended or repealed by the Legislature at will.*” *Carter*, 2012 UT 2, ¶ 27 (quoting *Kaddery v. City of Portland*, 44 Or. 118, 74 P. 710, 720 (1903)) (emphasis added); J.E.

Macy, Annotation, *Power of legislative body to amend, repeal, or abrogate initiative or referendum measure, or to enact measure defeated on referendum*, 33 A.L.R.2d 1118, § 2 (2009) (“Under general constitutional provisions vesting the legislative power of the state in a legislature but reserving to the people the right of initiative and referendum, there is no superiority of power as between the two. . . . In the absence of special constitutional restraint, either may amend or repeal an enactment by the other.”); Norman Singer, 1A *Sutherland Statutory Construction* (7th ed.) § 23:24

(stating that initiative measures “have the same status as ordinary acts of the legislature except where the Constitution” provides otherwise).⁷

Consistent with these controlling and persuasive authorities, Prop. 2 does not contain any language showing its drafters or sponsors believed it could not be changed by the Utah Legislature. Prop. 2 states that, like any ordinary legislation, it “takes precedent over, and otherwise governs in place of any conflicting or contradictory legislation passed during a general session of the Utah Legislature *before* enactment of this law.” See Prop. 2, § 68 (Override clause), p. 65 (emphasis added). But Prop. 2 does not state it governs in place of or precludes conflicting laws passed by the Utah Legislature *after* its enactment. (*Id.*).

Contrary to the controlling and persuasive authorities cited above, Plaintiffs’ interpretation of Article VI, section 1 elevates voter-approved initiatives to essentially constitutional status where they would remain unamendable and untouchable by normal legislative action. But there is no legal or textual support for Plaintiffs’ interpretation.

Even if Plaintiffs had shown Article VI, section 1 substantively limits the Utah Legislature’s power to change laws adopted by the initiative process, Plaintiffs would require a private right of action to enforce the substantive limitation. But they don’t

⁷ Plaintiffs allege the Legislature “radically” amended and “dramatically undermine[d] core purposes of Proposition 2” by passing H.B. 3001. (FAC, ¶ 4). These and other allegations characterizing the extent to which Proposition 2 was amended are legal conclusions that Defendants dispute. But even if these allegations were accurate, they would be irrelevant and would not prevent dismissal because the Utah Constitution places no limits on the Legislature’s power to amend or replace initiated statutes.

have one. To enforce a substantive limit in the Utah Constitution, a party must show either it is authorized by statute or that the substantive limit is “self-executing.” *Friends of Great Salt Lake v. Utah Dep’t of Nat. Res.*, 2017 UT 15, ¶ 62, 393 P.3d 291.

Plaintiffs have not alleged that a statute authorizes them to sue to enforce the alleged substantive limitation in [Article VI, section 1](#). And Plaintiffs have not shown the alleged limitation is self-executing. *Spackman v. Bd. of Educ. of Box Elder Cty. Sch. Dist.*, 2000 UT 87, ¶¶ 7-8, 16 P.3d 533 (stating a “constitutional provision is self-executing if it articulates a rule sufficient to give effect to the underlying rights and duties intended by the framers” or “prohibits certain government conduct.”). To the contrary, [Article VI, section 1](#) does not articulate a rule sufficient to give effect to the alleged substantive limitation, and it does not prohibit the Utah Legislature from amending laws adopted by the initiative process.

Because the Utah Legislature did not violate [Article VI, Section 1](#) by enacting H.B. 3001, and Plaintiffs lack a private right of action, Plaintiffs’ first claim for relief fails.

III. PLAINTIFFS’ PREEMPTION CHALLENGE FAILS BECAUSE THEY DO NOT HAVE THE RIGHT TO ENFORCE THE ALLEGEDLY PREEMPTIVE FEDERAL LAWS

Even assuming Plaintiffs have standing to assert their second claim for relief (“Preemption Claim”), they fail to state a viable claim. Establishing standing does not mean Plaintiffs have a right to sue under a federal statute. See *Lexmark Int’l, Inc. v. Static Control Components, Inc.*, 572 U.S. 118, 127 (2014); *United States v. Wells*, 873 F.3d 1241, 1261 (10th Cir. 2017) (“[T]he question that courts have misguidedly used the term ‘standing’ to describe . . . is really whether a particular litigant is a member of a class that Congress has authorized to sue . . .”).

Plaintiffs allege the federal Controlled Substances Act (“CSA”) and Drug-Free Workplace Act (“DFWA”) conflict with and preempt the portions of H.B. 3001 that require a “state central fill” and local health departments to purchase, possess, and distribute medical marijuana. (FAC, ¶¶ 53-58). The Court should dismiss the Preemption Claim, with prejudice, based on the Tenth Circuit’s reasoning and holding in *Safe Streets All. v. Hickenlooper*, 859 F.3d 865, 902 (10th Cir. 2017) (holding plaintiffs had no viable cause of action against a state and county to privately enforce CSA’s alleged preemption of Colorado constitutional amendment legalizing recreational marijuana). *Safe Streets* squarely prohibits Plaintiffs’ attempt to preempt H.B. 3001 with the CSA, and a straightforward application of its reasoning likewise forecloses Plaintiffs’ attempt to preempt H.B. 3001 with the DFWA.

Under *Safe Streets*, Plaintiffs’ Preemption Claim fails because they have not shown the CSA or DFWA provides them a private right of action. Private rights of action to enforce federal law must be created by Congress. *Safe Streets*, 859 F.3d at 902. And “Congress must have created a specific and uniquely federal right or remedy, enforceable in a federal court of equity for injunctive relief to issue.” *Id.* at 902-03. Thus, to enforce a federal statute and obtain equitable relief, a plaintiff must have “been given a federal right of [her] own under the statute at issue in the case.” *Id.* at 903.

Applying these principles, the Tenth Circuit in *Safe Streets* held the CSA did not provide private plaintiffs a right of action to enforce the CSA’s preemptive effects against allegedly conflicting state law. As the Tenth Circuit stated, “to determine whether a private plaintiff may enforce the CSA, we must first determine whether that plaintiff has

substantive rights in the CSA that he or she is seeking to vindicate.” *Id.* But, as was the case in *Safe Streets*, Plaintiffs do not “have any substantive rights in § 903 or elsewhere in the CSA by which they can enforce the CSA’s preemptive effects.” *Id.*⁸ Likewise, Plaintiffs do not have any substantive rights in the DFWA through which they can enforce the DFWA’s alleged preemptive effects. “This inexorably leads” to the conclusion that Plaintiffs have “no viable causes of action” against Defendants. *Id. at 904.* Thus, as in *Safe Streets*, Plaintiffs’ “preemption claims fail as a matter of law.” *Id. at 905* (affirming dismissal of preemption claims under Rule 12(b)(6)).⁹

CONCLUSION

For these reasons, Defendants respectfully ask this Court to dismiss the FAC and all the claims in it, with prejudice.

DATED: June 17, 2019.

OFFICE OF THE UTAH ATTORNEY
GENERAL

/s/ Andrew Dymek

DAVID N. WOLF

ANDREW DYMEK

Assistant Utah Attorneys General

Counsel for Defendants

⁸ Section 903 is the CSA’s statutory preemption provision. *Id. at 877* (citing 21 U.S.C. § 903).

⁹ Although Plaintiffs also invoke the Supremacy Clause, (FAC, ¶¶ (2), 1, 5, 36(h), 37(h), 38(h), 39(f), 40(d), 42), the Supremacy Clause is not the source of any federal rights and “certainly does not create a cause of action.” *Id. at 900* (quoting *Armstrong v. Exceptional Child Ctr., Inc.*, 135 S. Ct. 1378, 1383 (2015)).

CERTIFICATE OF MAILING

I certify that on **June 17, 2019**, I electronically filed the foregoing, **STATE OF UTAH'S MOTION TO DISMISS AMENDED COMPLAINT**, using the Court's electronic filing system and I also certify that a true and correct copy of the foregoing was sent by email to the following:

Ross C. Anderson
Walter M. Mason
LAW OFFICES OF ROCKY ANDERSON
The Judge Building
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/s/ Mohamed I. Abdullahi
Legal Secretary

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EXHIBIT A



PROPOSITION NUMBER 2

☐ FOR
☐ AGAINST

Shall a law be enacted to:

- establish a state-controlled process that allows persons with certain illnesses to acquire and use medical cannabis and, in certain limited circumstances, to grow up to six cannabis plants for personal medical use;
- authorize the establishment of facilities that grow, process, test, or sell medical cannabis and require those facilities to be licensed by the state; and
- establish state controls on those licensed facilities, including:
 - electronic systems that track cannabis inventory and purchases; and
 - requirements and limitations on the packaging and advertising of cannabis and on the types of products allowed?

IMPARTIAL ANALYSIS

Proposition Number 2 adds to current Utah law related to medical cannabis, also known as medical marijuana, in two main ways. First, it authorizes the establishment of private facilities that grow, process, test, and sell medical cannabis and requires the state to regulate those facilities. Second, the Proposition establishes a state-controlled process for people with certain conditions to receive approval to acquire, use, and, in certain limited circumstances, grow medical cannabis.

Current Law

Current Utah law requires the state, by January 1, 2019, to ensure that cannabis is grown in the state and can be processed into medicinal form and to establish a state facility to sell the cannabis that has been processed into a medicinal form.

Under current Utah law, cannabis can be grown, processed, or sold only by the state. The state may sell cannabis only to a qualified research institution or a person who is terminally ill with less than six months to live.

Under current federal law, it is illegal to distribute, possess, or use cannabis. The federal law is enforceable throughout the country, regardless of whether a state law authorizes the distribution, possession, or use of cannabis in some manner. To the extent a state law prevents the federal government from executing the federal law, the federal law controls and a court could find that the state law is invalid.

Effect of Proposition 2

Proposition 2 does not eliminate or change Utah's existing cannabis-related law but adds to it in two main ways. First, the Proposition adds a parallel path for cannabis production and distribution by authorizing the establishment of private facilities that grow, process, test, and sell medical cannabis. Second, the Proposition establishes a parallel process for people to receive approval to use medical cannabis, expanding the group of people eligible to use medical cannabis.

Licensed and regulated facilities

Proposition 2 authorizes the establishment of four types of private cannabis facilities:

- cultivation facilities, which grow cannabis to sell to other cannabis facilities;
- processing facilities, which acquire unprocessed cannabis from cultivation facilities, process it into cannabis products, and sell those products to dispensaries;
- testing facilities, which test samples of all cannabis and cannabis products to be sold by dispensaries; and
- dispensaries, which acquire cannabis and cannabis products from cultivation facilities and processing facilities to sell to people who have been approved to use medical cannabis.

Proposition 2 also requires the state to license and regulate cannabis facilities and establishes requirements for and limitations on the facilities, including requirements and limitations relating to:

- the advertising, packaging, labeling, processing, testing, and transporting of medical cannabis;
- the types of products that may be processed or sold;
- the quantities of medical cannabis that may be sold; and
- the number of facilities that may be licensed to grow or sell medical cannabis.

Proposition 2 requires each licensed cannabis facility to maintain an inventory control system that:

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- tracks cannabis in real time, using a unique identifier;
- stores in real time a record of the facility's cannabis inventory;
- includes a video recording system to track cannabis handling and processing;
- maintains compatibility with the state's electronic system identifying people approved to use medical cannabis; and
- is accessible to the state during inspections, which can occur at any time.

Medical cannabis use

Proposition 2 establishes a state-controlled process to allow, beginning March 1, 2020, certain people to receive approval to use medical cannabis, expanding the group of people eligible to use medical cannabis. To receive approval to use medical cannabis under Proposition 2, a person must have one of the conditions listed as a "qualifying illness" and receive a physician's recommendation.

Proposition 2 also establishes a process for a person whose condition is not included on the list of qualifying illnesses to receive approval to use medical cannabis. To receive approval, a person must provide satisfactory evidence to a five-member board of physicians that the person has a condition that is hard to control or deal with and substantially impairs the person's quality of life, and the board must determine that medical cannabis use is in the person's best interest.

Under Proposition 2, a person approved to use medical cannabis is:

- prohibited from using medical cannabis in public, except in a medical emergency;
- prohibited from smoking cannabis;
- prohibited from using medical cannabis while operating a motor vehicle;
- required to carry proof, when possessing medical cannabis outside the person's residence, that the person is approved to use medical cannabis;
- required to carry cannabis, when outside the person's residence, only in limited quantities and with labeling that indicates its source;
- allowed to grow up to six cannabis plants for personal medical use, if, after January 1, 2021, there is no licensed dispensary selling medical cannabis within 100 miles of the person's residence; and
- allowed to designate up to two persons to help, without compensation, the person acquire or grow medical cannabis, if a physician determines that the person needs assistance.

Proposition 2 requires the state to maintain an electronic system, operational by March 1, 2020, that, among other things, allows:

- a physician to submit a recommendation for medical cannabis treatment;
- a person to apply from a physician's office for approval to use medical cannabis;
- the state to track and archive, for no more than 60 days, cannabis purchases; and
- law enforcement to determine during a traffic stop whether a person is approved to use medical cannabis.

Fiscal Impact

Proposition 2 exempts medical cannabis sales from state and local sales tax and requires the state to impose fees, including licensing and registration fees paid by cannabis facilities, to cover the ongoing costs of implementing the Proposition. In the first year, Proposition 2 may cost the state \$3.6 million, an amount that includes one-time setup costs. Some of the first year's initial setup costs will have to be paid before the state begins collecting fees, requiring the state to pay \$1.3 million from state tax revenue. After the first year, the annual revenue from fees is expected to cover the Proposition's estimated annual cost of \$2.1 million.

ARGUMENT IN FAVOR

The Utah Medical Cannabis Act would allow sick and suffering Utahns to legally access cannabis if their doctors feel it can help them.

Passing this law would make Utah the 30th state to approve medical cannabis as a treatment for sick and ailing patients with a limited set of approved conditions. Polls in Utah have repeatedly shown over 75% of voters support this proposal.

Despite such strong support, the Legislature has not been willing to pass an effective law that stops treating patients as criminals. As a result, the Utah Patients Coalition collected nearly 200,000 signatures to give you the opportunity to decide this important issue.

The Utah Medical Cannabis Act is a cautiously crafted bill, written with Utah values in mind. It includes responsible regu-

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lations to ensure only patients can obtain legal access. It also gives law enforcement significant oversight and applies numerous restrictions to minimize abuse. Recreational use of cannabis would remain strictly prohibited and will continue to be prosecuted according to the law.

Patients with the following ailments would be allowed access under a doctor's supervision:

Epilepsy
Cancer
Chronic pain
Crohn's disease
Autism
PTSD
Multiple Sclerosis
HIV/AIDS
Alzheimer's disease
ALS (Lou Gehrig's Disease)

Individuals suffering from these conditions should not be criminalized, especially when others like them are able to find symptom relief in states that provide safe, legal use of cannabis-based treatments. Creating medical refugees of sick Utahns—and forcing them to abandon their support network in our great state merely to find relief elsewhere—is inhumane. There is a better way.

If you agree, we invite you to support medical patients by voting in favor of the Utah Medical Cannabis Act. Patients shouldn't be treated as criminals.

Utah Patients Coalition
189 N Hwy 89 Suite C, 129
North Salt Lake, UT 84054

Officers:
Donald Schanz
15 S. Fairway Drive
North Salt Lake, UT 84054

Connor Boyack
733 W 1620 S
Lehi, UT 84043

REBUTTAL TO ARGUMENT IN FAVOR

Over the past five years, Utah lawmakers have passed several bills to help people who can benefit from medical marijuana. These initial steps are well thought-out, chart a responsible path to relieving suffering, and protect Utah communities from unintended consequences. Unfortunately, Proposition 2 ignores these policy changes and implements a de facto recreational marijuana policy in Utah.

Proposition 2 violates the safeguards of legitimate medicine. Instead of physicians only, the initiative allows a long list of individuals to recommend marijuana use. Instead of pharmacies, it provides for dispensaries (the initiative's term for pot shops) to sell a variety of products such as gummies and brownies. Instead of prescribed dosages managed by licensed pharmacists, the initiative allows any person to receive the equivalent of 100 joints every two weeks. This is recreational marijuana, not medical marijuana.

The co-author of California's medical marijuana law, very similar to Proposition 2, says, "We created [it] so that patients would not have to deal with black-market profiteers. But today it is all about the money. Most of the dispensaries operating in California are little more than dope dealers with storefronts." Utah can do better.

The National Academies of Sciences Engineering and Medicine concluded marijuana use during adolescence negatively impacts education performance, employment and social relationships. States legalizing medical marijuana have seen an increase in youth usage, suicide and addiction rates. The harm to our youth is predictable and measurable.

We encourage all Utahns to vote AGAINST Proposition 2.

Senator Evan Vickers
Representative Brad Daw
842 E 280 S
Orem, Utah 84097

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ARGUMENT AGAINST

This Initiative Goes Too Far

This initiative promotes widespread recreational use while presenting itself as only helping patients. It needlessly exposes our children and youth to a dangerous and highly addictive drug. It violates sound medical practice. It will increase traffic fatalities and criminal activity. It overrides the ability of cities and towns to make their own zoning decisions. We strongly urge you to vote "AGAINST" this initiative.

Youth Marijuana Use Will Increase

A recent national survey shows that states that legalized marijuana have the highest rate of youth marijuana use in the nation. Utah currently ranks last. Adolescent use lowers IQ, reduces motivation, causes psychosis, and is associated with increased suicide attempts and abuse of other drugs. Utah has over 650,000 school children that will be put at significant risk. This is one reason Utah PTA opposes this initiative.

Marijuana Will Be Sold by Untrained "Budtenders"

Real medicine requires a prescription filled at a pharmacy. In sharp contrast, the initiative allows virtually anyone to obtain a healthcare provider's "recommendation." People with no legitimate medical training ("budtenders") will then sell marijuana products with names such as Green Crack, AK-47, Gorilla Glue and Girl Scout Cookies. People will be able to buy the equivalent of 100 joints every two weeks. This is one reason Utah Medical Association opposes this initiative.

Traffic Fatalities and Crime Will Increase

States that have legalized marijuana have seen dramatic increases in marijuana-related traffic accidents and deaths. These states have also seen an increase in criminal marijuana activity. This is one reason the Utah law enforcement community opposes this initiative.

Cities Will Have No Control Over Marijuana Operations

Elected city and county officials will not be able to prevent large marijuana-growing warehouses, dispensaries, or other marijuana-related businesses from operating in our community. Marijuana could be sold as close as 300 feet to our homes and only 600 feet from schools, parks, and playgrounds. That's why many local community leaders oppose this initiative.

Taxpayers Will Foot the Bill

This marijuana initiative is costly to taxpayers because it allows cash-only dispensaries to sell marijuana without charging sales tax. The state of Utah will be forced to regulate this new multimillion dollar industry with no offsetting tax to pay for it. Big Marijuana gets rich and we get the bill.

Utah Is Already Helping Patients

We support medical marijuana when administered in the same manner as any other legitimate drug – through a physician and pharmacist. In addition to FDA approval of a marijuana extract for seizures, Utah has already approved science-based and medically sound treatments derived from marijuana for patients with specific needs.

Conclusion

This initiative is highly dangerous. It artfully conceals intentions that go far beyond the simplistic description given by initiative proponents. They are funded by a powerful pro-marijuana lobbying organization based in Washington, DC, that exploits the plight of the sick to further their ultimate goal of recreational marijuana.

Vote "AGAINST" this costly, unnecessary, and dangerous initiative.

Representative Brad Daw

842 E 280 S

Orem, UT 84097

Senator Evan Vickers

REBUTTAL TO ARGUMENT AGAINST

The Utah Medical Cannabis Act (Prop 2) will be among the most conservative medical cannabis programs in the country, according to Americans for Safe Access. In fact, it would be the only program that bans both smoking and home cultivation. The arguments against Prop 2 are shrouded in fear and hyperbole.

Opponents claim the initiative "promotes widespread recreational use." This is false. Absolutely no recreational use is

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allowed. Instead, a patient with an approved condition must be given access by a medical provider who also has legal authority to prescribe opioids.

The vast majority of Utahns support Prop 2, including many law enforcement officers, doctors, and lawmakers. With diverse backgrounds and views, we all agree on this point: **patients should not be treated as criminals.**

Scientists throughout the world, especially in Israel, have clinically researched the benefits of cannabis for decades. Utahns can benefit from this vast library of knowledge. While more research is always better, the opposition fails to embrace the profound amount of scientific research validating medical cannabis.

Think of your loved ones who suffer from cancer, MS, chronic pain, epilepsy, and more. What would you want for them? Forcing families to choose between fleeing the state or breaking the law and risking losing their job or children is neither reasonable nor compassionate.

We urge you to set aside the opposition's fearmongering and let Utah join thirty other states with patient access to medical cannabis, under a doctor's supervision.

Support medical patients. Vote FOR Prop 2.

Utah Patients Coalition Officers: Donald Schanz & Connor Boyack

FULL TEXT OF PROPOSITION NUMBER 2

Be It Enacted by the People of the State of Utah:

Section 1. Section **4-41b-101** is enacted to read:

CHAPTER 41b. CANNABIS PRODUCTION ESTABLISHMENTS Part 1. General Provisions

4-41b-101. Title.

(1) This chapter is known as "Cannabis Production Establishments."

Section 2. Section **4-41b-102** is enacted to read:

4-41b-102. Definitions.

As used in this chapter:

- (1) "Cannabis" means the same as that term is defined in Section 58-37-3.6b.
- (2) "Cannabis cultivation facility" means a person that:
 - (a) possesses cannabis;
 - (b) grows or intends to grow cannabis; and
 - (c) sells or intends to sell cannabis to cannabis production establishments or to cannabis dispensaries.
- (3) "Cannabis cultivation facility agent" means an individual who is an owner, officer, director, board member, employee, or volunteer of a cannabis cultivation facility.
- (4) "Cannabis dispensary" means the same as that term is defined in Section 26-60b-102.
- (5) "Cannabis dispensary agent" means the same as that term is defined in Section 26-60b-102.
- (6) "Cannabis processing facility" means a person that:
 - (a) acquires or intends to acquire cannabis from a cannabis production establishment;
 - (b) possesses cannabis with the intent to manufacture a cannabis product;
 - (c) manufactures or intends to manufacture a cannabis product from unprocessed cannabis; and
 - (d) sells or intends to sell a cannabis product to a cannabis dispensary.
- (7) "Cannabis processing facility agent" means an individual who is an owner, officer, director, board member, employee, or volunteer of a cannabis processing facility.
- (8) "Cannabis product" means the same as that term is defined in Section 58-37-3.6b.
- (9) "Cannabis production establishment" means a cannabis cultivation facility, a cannabis processing facility, or an independent cannabis testing laboratory.
- (10) "Cannabis production establishment agent" means a cannabis cultivation facility agent, a cannabis processing facility agent, or an independent cannabis testing laboratory agent.
- (11) "Cannabis production establishment agent registration card" means a registration card, issued by the department, that authorizes an individual to act as a cannabis production establishment agent and designates the type of cannabis production establishment for which an individual is authorized to act as an agent.
- (12) "Community location" means a public or private school, a church, a public library, a public playground, or a public park.
- (13) "Independent cannabis testing laboratory" means a person that:
 - (a) conducts a chemical or other analysis of cannabis or a cannabis product; or
 - (b) acquires, possesses, and transports cannabis or a cannabis product with the intent to conduct a chemical or other analysis of the cannabis or cannabis product.
- (14) "Independent cannabis testing laboratory agent" means an individual who is an owner, officer, director, board member, employee, or volunteer of an independent cannabis testing laboratory.
- (15) "Inventory control system" means the system described in Section 4-41b-103.
- (16) "Medical cannabis card" means the same as that term is defined in Section 26-60b-102.
- (17) "Medical Cannabis Restricted Account" means the account created in Section 26-60b-109.
- (18) "Physician" means the same as that term is defined in Section 26-60b-107.
- (19) "State electronic verification system" means the system described in Section 26-60b-103.

Section 3. Section **4-41b-103** is enacted to read:

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4-41b-103. Inventory control system.

- (1) A cannabis production establishment and a cannabis dispensary shall maintain an inventory control system that meets the requirements of this section.
- (2) An inventory control system shall track cannabis using a unique identifier, in real time, from the point that a cannabis plant is eight inches tall, and has a root ball, until the cannabis is disposed of or sold, in the form of unprocessed cannabis or a cannabis product, to an individual with a medical cannabis card.
- (3) An inventory control system shall store in real time a record of the amount of cannabis and cannabis products in the cannabis production establishment's or cannabis dispensary's possession.
- (4) An inventory control system shall include a video recording system that:
 - (a) tracks all handling and processing of cannabis or a cannabis product in the cannabis production establishment or cannabis dispensary;
 - (b) is tamper proof; and
 - (c) is capable of storing a video record for 45 days.
- (5) An inventory control system installed in a cannabis production establishment or cannabis dispensary shall maintain compatibility with the state electronic verification system.
- (6) A cannabis production establishment or cannabis dispensary shall allow the department or the Department of Health access to the cannabis production establishment's or cannabis dispensary's inventory control system during an inspection.
- (7) The department may establish compatibility standards for an inventory control system by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Section 4. Section **4-41b-104** is enacted to read:

4-41b-104. Preemption.

This chapter preempts any ordinance or rule enacted by a political subdivision of the state regarding a cannabis production establishment.

Section 5. Section **4-41b-201** is enacted to read:

Part 2. Cannabis Production Establishment

4-41b-201. Cannabis production establishment -- License.

- (1) A person may not operate a cannabis production establishment without a license issued by the department under this chapter.
- (2) Subject to Subsections (6) and (7) and to Section 4-41b-204, the department shall, within 90 days after receiving a complete application, issue a license to operate a cannabis production establishment to a person who submits to the department:
 - (a) a proposed name and address where the person will operate the cannabis production establishment that is not within 600 feet of a community location or within 300 feet of an area zoned exclusively for residential use, as measured from the nearest entrance to the cannabis production establishment by following the shortest route of ordinary pedestrian travel to the property boundary of the community location or residential area;
 - (b) the name and address of any individual who has a financial or voting interest of two percent or greater in the proposed cannabis production establishment or who has the power to direct or cause the management or control of a proposed medical cannabis production establishment;
 - (c) an operating plan that complies with Section 4-41b-203 and that includes operating procedures to comply with the requirements of this chapter and with any laws adopted by the municipality or county that are consistent with Section 4-41b-405;
 - (d) financial statements demonstrating that the person possesses a minimum of \$500,000 in liquid assets available for each cannabis cultivation facility for which the person applies or a minimum of \$100,000 in liquid assets available for each cannabis processing facility or independent cannabis testing laboratory for which the person applies;
 - (e) if the municipality or county where the proposed cannabis production establishment would be located has enacted zoning restrictions, a sworn statement certifying that the proposed cannabis production establishment is in compliance with the restrictions;
 - (f) if the municipality or county where the proposed cannabis production establishment would be located requires a local permit or license, a copy of the application for the local permit or license; and
 - (g) an application fee established by the department in accordance with Section 63J-1-504, that is necessary to cover the department's cost to implement this chapter.
- (3) If the department determines that a cannabis production establishment is eligible for a license under this section, the department shall charge the cannabis establishment an initial license fee in an amount determined by the department in accordance with Section 63J-1-504.
- (4) Except as provided in Subsection (5), the department shall require a separate license for each type of cannabis production establishment and each location of a cannabis production establishment.
- (5) The department may issue a cannabis cultivation facility license and a cannabis processing facility license to a person to operate at the same physical location or at separate physical locations.
- (6) The department may not issue a license to operate an independent cannabis testing laboratory to a person:
 - (a) that holds a license or has an ownership interest in a cannabis dispensary, a cannabis processing facility, or a cannabis cultivation facility in the state;
 - (b) that has an owner, officer, director, or employee whose immediate family member holds a license or has an ownership interest in a cannabis dispensary, a cannabis processing facility, or a cannabis cultivation facility; or
 - (c) who proposes to operate the independent cannabis testing laboratory at the same physical location as a cannabis dispensary, a cannabis processing facility, or a cannabis cultivation facility.
- (7) The department may not issue a license to operate a cannabis production establishment to an applicant if any individual who has a financial or voting interest of two percent or greater in the applicant or who has the power to direct or cause the management or control of the applicant:
 - (a) has been convicted of an offense that is a felony under either state or federal law; or
 - (b) is less than 21 years of age.
- (8) The department may revoke a license under this part if the cannabis production establishment is not operating within one year of the issuance of the initial license.
- (9) The department shall deposit the proceeds of a fee imposed by this section in the Medical Cannabis Restricted Account.
- (10) The department shall begin accepting applications under this part no later than January 1, 2020.

Section 6. Section **4-41b-202** is enacted to read:

4-41b-202. Renewal.

- (1) The department shall renew a person's license issued under Section 4-41b-201 every two years, if, at the time of renewal:
 - (a) the person meets the requirements of Section 4-41b-201; and
 - (b) the person pays the department a license renewal fee in an amount determined by the department in accordance with Section 63J-1-504.

Section 7. Section **4-41b-203** is enacted to read:

4-41b-203. Operating plan.

- (1) A person applying for a cannabis production facility license shall submit to the department a proposed operation plan that complies with this sec-

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tion and that includes:

- (a) a description of the physical characteristics of the proposed facility, including a floor plan and an architectural elevation;
 - (b) a description of the credentials and experience of:
 - (i) each officer, director, or owner of the proposed cannabis production establishment; and
 - (ii) any highly skilled or experienced prospective employee;
 - (c) the cannabis production establishment's employee training standards;
 - (d) a security plan;
 - (e) a description of the cannabis production establishment's inventory control system, including a plan to make the inventory control system compatible with the state electronic verification system;
 - (f) for a cannabis cultivation facility, the information described in Subsection (2);
 - (g) for a cannabis processing facility, the information described in Subsection (3); and
 - (h) for an independent cannabis testing laboratory, the information described in Subsection (4).
- (2) A cannabis cultivation facility's operating plan shall include the cannabis cultivation facility's intended cannabis cultivation practices, including the cannabis cultivation facility's intended pesticide use, fertilizer use, square footage under cultivation, and anticipated cannabis yield.
- (3) A cannabis processing facility's operating plan shall include the cannabis processing facility's intended cannabis processing practices, including the cannabis processing facility's intended offered variety of cannabis product, cannabinoid extraction method, cannabinoid extraction equipment, processing equipment, processing techniques, and sanitation and food safety procedures.
- (4) An independent cannabis testing laboratory's operating plan shall include the independent cannabis testing laboratory's intended cannabis and cannabis product testing capability and cannabis and cannabis product testing equipment.

Section 8. Section 4-41b-204 is enacted to read:

4-41b-204. Number of licenses -- Cannabis cultivation facilities.

- (1) Except as otherwise provided in Subsection (2), the department may issue not more than 15 licenses to operate cannabis cultivation facilities.
- (2) After January 1, 2022, the department may issue additional licenses to operate cannabis cultivation facilities if the department determines, after an analysis of the current and anticipated market for medical cannabis and medical cannabis products, that additional licenses are needed to provide an adequate supply, quality, or variety of medical cannabis and medical cannabis products to medical cannabis card holders in Utah.
- (3) If there are more qualified applicants than there are available licenses for cannabis cultivation facilities, the department shall evaluate the applicants and award licenses to the applicants that best demonstrate:
 - (a) experience with establishing and successfully operating a business that involves complying with a regulatory environment, tracking inventory, and training, evaluating, and monitoring employees;
 - (b) an operating plan that will best ensure the safety and security of patrons and the community;
 - (c) positive connections to the local community; and
 - (d) the extent to which the applicant can reduce the cost of cannabis or cannabis products for patients.
- (4) The department may conduct a face-to-face interview with an applicant for a license that the department evaluates under Subsection (3).

Section 9. Section 4-41b-301 is enacted to read:

Part 3. Cannabis Production Establishment Agents

4-41b-301. Cannabis production establishment agent -- Registration.

- (1) An individual may not act as a cannabis production establishment agent unless the individual is registered by the department as a cannabis production establishment agent.
- (2) A physician may not serve as a cannabis production establishment agent.
- (3) An independent cannabis testing laboratory agent may not act as an agent for a cannabis dispensary, a cannabis processing facility, or a cannabis cultivation facility.
- (4) The department shall, within 15 business days after receiving a complete application from a cannabis production establishment on behalf of a prospective cannabis production establishment agent, register and issue a cannabis production establishment agent registration card to an individual who:
 - (a) provides to the department the individual's name and address and the name and location of a licensed cannabis production establishment where the individual will act as the cannabis production establishment's agent; and
 - (b) pays a fee to the department, in an amount determined by the department in accordance with Section 63J-1-504, that is necessary to cover the department's cost to implement this part.
- (5) The department shall designate, on an individual's cannabis production establishment agent registration card:
 - (a) the name of the cannabis production establishment where the individual is registered as an agent; and
 - (b) the type of cannabis production establishment for which the individual is authorized to act as an agent.
- (6) A cannabis production establishment agent shall comply with a certification standard developed by the department or with a third party certification standard designated by the department by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- (7) The certification standard described in Subsection (6) shall include training:
 - (a) in Utah medical cannabis law;
 - (b) for a cannabis cultivation facility agent, in cannabis cultivation best practices;
 - (c) for a cannabis processing facility agent, in cannabis processing, food safety, and sanitation best practices; and
 - (d) for an independent cannabis testing laboratory agent, in cannabis testing best practices.
- (8) The department may revoke or refuse to issue the cannabis production establishment agent registration card of an individual who:
 - (a) violates the requirements of this chapter; or
 - (b) is convicted of an offense that is a felony under state or federal law.

Section 10. Section 4-41b-302 is enacted to read:

4-41b-302. Cannabis production establishment -- Criminal background checks.

- (1) Each applicant shall submit, at the time of application, from each individual who has a financial or voting interest of two percent or greater in the applicant or who has the power to direct or cause the management or control of the applicant:
 - (a) a fingerprint card in a form acceptable to the department; and
 - (b) consent to a fingerprint background check by the Utah Bureau of Criminal Identification and the Federal Bureau of Investigation.
- (2) The department shall request that the Department of Public Safety complete a Federal Bureau of Investigation criminal background check for the individual described in Subsection (1).

Section 11. Section 4-41b-303 is enacted to read:

4-41b-303. Cannabis production establishment agent registration card -- Rebuttable presumption.

- (1) A cannabis production establishment agent who is registered with the department under Section 4-41b-301 shall carry the individual's cannabis

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production establishment agent registration card with the individual at all times when:

- (a) the individual is on the premises of a cannabis production establishment where the individual is a cannabis production establishment agent; and
 - (b) the individual is transporting cannabis, a cannabis product, or a medical cannabis device between two cannabis production establishments or between a cannabis production establishment and a cannabis dispensary.
- (2) If an individual handling cannabis, a cannabis product, or a medical cannabis device at a cannabis production establishment, or transporting cannabis, a cannabis product, or a medical cannabis device, possesses the cannabis, cannabis product, or medical cannabis device in compliance with Subsection (1):
- (a) there is a rebuttable presumption that the individual possesses the cannabis, cannabis product, or medical cannabis device legally; and
 - (b) a law enforcement officer does not have probable cause, based solely on the individual's possession of the cannabis, cannabis product, or medical cannabis device in compliance with Subsection (1), to believe that the individual is engaging in illegal activity.
- (3) An individual who violates Subsection (1) is:
- (a) guilty of an infraction; and
 - (b) is subject to a \$100 fine.

Section 12. Section **4-41b-401** is enacted to read:

Part 4. General Cannabis Production Establishment Operating Requirements

4-41b-401. Cannabis production establishment -- General operating requirements.

- (1)(a) A cannabis production establishment shall operate in accordance with the operating plan provided to the department under Section 4-41b-203.
- (b) A cannabis production establishment shall notify the department before a change in the cannabis production establishment's operating plan.
- (2) A cannabis production establishment shall operate:
 - (a) except as provided in Subsection (5), in a facility that is accessible only by an individual with a valid cannabis production establishment agent registration card issued under Section 4-41b-301; and
 - (b) at the physical address provided to the department under Section 4-41b-201.
- (3) A cannabis production establishment may not employ any person who is younger than 21 years of age.
- (4) A cannabis production establishment shall conduct a background check into the criminal history of every person who will become an agent of the cannabis production establishment and may not employ any person who has been convicted of an offense that is a felony under either state or federal law.
- (5) A cannabis production establishment may authorize an individual who is not a cannabis production establishment agent to access the cannabis production establishment if the cannabis production establishment tracks and monitors the individual at all times while the individual is at the cannabis production establishment and maintains a record of the individual's access.
- (6) A cannabis production establishment shall operate in a facility that has:
 - (a) a single, secure public entrance;
 - (b) a security system with a backup power source that:
 - (i) detects and records entry into the cannabis production establishment; and
 - (ii) provides notice of an unauthorized entry to law enforcement when the cannabis production establishment is closed; and
 - (c) a lock on any area where the cannabis production establishment stores cannabis or a cannabis product.

Section 13. Section **4-41b-402** is enacted to read:

4-41b-402. Inspections.

The department may inspect the records and facility of a cannabis production establishment at any time in order to determine if the cannabis production establishment complies with the requirements of this chapter.

Section 14. Section **4-41b-403** is enacted to read:

4-41b-403. Advertising.

- (1) A cannabis production establishment may not advertise to the general public in any medium.
- (2) Notwithstanding Subsection (1), a cannabis production establishment may advertise employment opportunities at the cannabis production facility.

Section 15. Section **4-41b-404** is enacted to read:

4-41b-404. Cannabis, cannabis product, or medical cannabis device transportation.

- (1) Except for an individual with a valid medical cannabis card pursuant to Title 26, Chapter 60b, Medical Cannabis Act, an individual may not transport cannabis, a cannabis product, or a medical cannabis device unless the individual is:
 - (a) a registered cannabis production establishment agent; or
 - (b) a registered cannabis dispensary agent.
- (2) Except for an individual with a valid medical cannabis card pursuant to Title 26, Chapter 60b, Medical Cannabis Act, an individual transporting cannabis, a cannabis product, or a medical cannabis device shall possess a transportation manifest that:
 - (a) includes a unique identifier that links the cannabis, cannabis product, or medical cannabis device to a relevant inventory control system;
 - (b) includes origin and destination information for any cannabis, cannabis product, or medical cannabis device the individual is transporting; and
 - (c) indicates the departure and arrival times and locations of the individual transporting the cannabis, cannabis product, or medical cannabis device.
- (3) In addition to the requirements in Subsections (1) and (2), the department may establish, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, requirements for transporting cannabis, a cannabis product, or a medical cannabis device that are related to safety for human cannabis or cannabis product consumption.
- (4) An individual who transports cannabis, a cannabis product, or a medical cannabis device with a manifest that does not meet the requirements of this section is:
 - (a) guilty of an infraction; and
 - (b) subject to a \$100 fine.

Section 16. Section **4-41b-405** is enacted to read:

4-41b-405. Local control.

- (1) A municipality or county may not enact a zoning ordinance that prohibits a cannabis production establishment from operating in a location within the municipality's or county's jurisdiction on the sole basis that the cannabis production establishment possesses, grows, manufactures, or sells cannabis.
- (2) A municipality or county may not deny or revoke a permit or license to operate a cannabis production facility on the sole basis that the applicant or cannabis production establishment violates a law of the United States.

Section 17. Section **4-41b-501** is enacted to read:

Part 5. Cannabis Cultivation Facility Operating Requirements

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4-41b-501. Cannabis cultivation facility -- Operating requirements.

- (1) A cannabis cultivation facility shall ensure that any cannabis growing at the cannabis cultivation facility is not visible at the cannabis cultivation facility perimeter.
- (2) A cannabis cultivation facility shall use a unique identifier that is connected to the cannabis cultivation facility's inventory control system for:
 - (a) beginning at the time a cannabis plant is 8 inches tall and has a root ball, each cannabis plant;
 - (b) each unique harvest of cannabis plants;
 - (c) each batch of cannabis transferred to a cannabis dispensary, a cannabis processing facility, or an independent cannabis testing laboratory; and
 - (d) disposal of excess, contaminated, or deteriorated cannabis.

Section 18. Section **4-41b-502** is enacted to read:

4-41b-502. Cannabis -- Labeling and packaging.

- (1) Cannabis shall have a label that:
 - (a) has a unique batch identification number that is connected to the inventory control system; and
 - (b) does not display images, words, or phrases that are intended to appeal to children.
- (2) A cannabis cultivation facility shall package cannabis in a container that:
 - (a) is tamper evident;
 - (b) is not appealing to children or similar to a candy container;
 - (c) is opaque; and
 - (d) complies with child-resistant effectiveness standards established by the United States Consumer Product Safety Commission.

Section 19. Section **4-41b-601** is enacted to read:

Part 6. Cannabis Processing Facility Operating Requirements

4-41b-601. Cannabis processing facility -- Operating requirements -- General.

- (1) A cannabis processing facility shall ensure that a cannabis product sold by the cannabis processing facility complies with the requirements of this part.
- (2) If a cannabis processing facility extracts cannabinoids from cannabis using a hydrocarbon process, the cannabis processing facility shall extract the cannabinoids under a blast hood and shall use a system to reclaim solvents.

Section 20. Section **4-41b-602** is enacted to read:

4-41b-602. Cannabis product -- Labeling and packaging.

- (1) A cannabis product shall have a label that:
 - (a) clearly and unambiguously states that the cannabis product contains cannabis;
 - (b) clearly displays the amount of tetrahydrocannabinol and cannabidiol in the cannabis product;
 - (c) has a unique identification number that:
 - (i) is connected to the inventory control system; and
 - (ii) identifies the unique cannabis product manufacturing process by which the cannabis product was manufactured;
 - (d) identifies the cannabinoid extraction process that the cannabis processing facility used to create the cannabis product;
 - (e) does not display images, words, or phrases that are intended to appeal to children; and
 - (f) discloses ingredients and possible allergens.
- (2) A cannabis processing facility shall package a cannabis product in a container that:
 - (a) is tamper evident;
 - (b) is not appealing to children or similar to a candy container;
 - (c) is opaque; and
 - (d) complies with child-resistant effectiveness standards established by the United States Consumer Product Safety Commission.

Section 21. Section **4-41b-603** is enacted to read:

4-41b-603. Cannabis product -- Product quality.

- (1) A cannabis processing facility may not produce a cannabis product in a physical form that:
 - (a) is intended to appeal to children; or
 - (b) is designed to mimic or be mistaken for an existing candy product.
- (2) A cannabis processing facility may not manufacture a cannabis product by applying a cannabis agent only to the surface of a pre-manufactured food product that is not produced by the cannabis processing facility.
- (3) A cannabis product may vary in the cannabis product's labeled cannabis profile by up to 15% of the indicated amount of a given cannabinoid, by weight.
- (4) The department shall adopt, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, human safety standards for manufacture of cannabis products that are consistent, to the extent possible, with rules for similar products that do not contain cannabis.

Section 22. Section **4-41b-701** is enacted to read:

Part 7. Independent Cannabis Testing Laboratories

4-41b-701. Cannabis and cannabis product testing.

- (1) No cannabis or cannabis product may be offered for sale at a cannabis dispensary unless a representative sample of the cannabis or cannabis product has been tested by an independent cannabis testing laboratory to determine:
 - (a) the amount of tetrahydrocannabinol and cannabidiol in the cannabis or cannabis product;
 - (b) that the presence of contaminants, including mold, fungus, pesticides, microbial contaminants, or foreign material, does not exceed an amount that is safe for human consumption; and
 - (c) for a cannabis product that is manufactured using a process that involves extraction using hydrocarbons, that the cannabis product does not contain an unhealthy level of a residual solvent.
- (2) The department may determine, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the amount of a substance described in Subsection (1) that is safe for human consumption.

Section 23. Section **4-41b-702** is enacted to read:

4-41b-702. Reporting -- Inspections -- Seizure by the department.

- (1) If an independent cannabis testing laboratory determines that the results of a lab test indicate that a cannabis or cannabis product batch may be unsafe for human consumption, the independent cannabis testing laboratory shall:
 - (a) report the results and the cannabis or cannabis product batch to:
 - (i) the department; and
 - (ii) the cannabis production establishment that prepared the cannabis or cannabis product batch;
 - (b) retain possession of the cannabis or cannabis product batch for one week in order to investigate the cause of the defective batch and to make a

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determination; and

(c) allow the cannabis production establishment that prepared the cannabis or cannabis product batch to appeal the determination described in Subsection (1)(b).

(2) If, under Subsection (1)(b), the department determines, following an appeal, that a cannabis or cannabis product prepared by a cannabis production establishment is unsafe for human consumption, the department may seize, embargo, or destroy the cannabis or cannabis product batch.

Section 24. Section **4-41b-801** is enacted to read:

Part 8. Enforcement

4-41b-801. Enforcement -- Fine -- Citation.

(1) The department may, for a violation of this chapter by a person that is a cannabis production establishment or a cannabis production establishment agent:

- (a) revoke the person's license or cannabis production establishment agent registration card;
- (b) refuse to renew the person's license or cannabis production establishment agent registration card; or
- (c) assess the person an administrative penalty.

(2) The department shall deposit an administrative penalty imposed under this section in the general fund.

(3)(a) The department may take an action described in Subsection (3)(b) if the department concludes, upon inspection or investigation, that, for a person that is a cannabis production establishment or a cannabis production establishment agent:

- (i) the person has violated the provisions of this chapter, a rule made under this chapter, or an order issued under this chapter; or
- (ii) the person produced cannabis or a cannabis product batch that contains a substance that poses a threat to human health.

(b) If the department makes the determination about a person described in Subsection (3)(a), the department shall:

- (i) issue the person a written citation;
- (ii) attempt to negotiate a stipulated settlement;
- (iii) seize, embargo, or destroy the cannabis or cannabis product batch; and
- (iv) direct the person to appear before an adjudicative proceeding conducted under Title 63G, Chapter 4, Administrative Procedures Act.

(4) The department may, for a person subject to an uncontested citation, a stipulated settlement, or a finding of a violation in an adjudicative proceeding under this section:

- (a) assess the person a fine, established in accordance with Section 63J-1-504, of up to \$5,000 per violation, in accordance with a fine schedule established by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or
- (b) order the person to cease and desist from the action that creates a violation.

(5) The department may not revoke a cannabis production establishment's license without first direct the cannabis production establishment to appear before an adjudicative proceeding conducted under Title 63G, Chapter 4, Administrative Procedures Act.

(6) If within 20 calendar days after the day on which a department serves a citation for a violation of this chapter, the person that is the subject of the citation fails to request a hearing to contest the citation, the citation becomes the department's final order.

(7) The department may, for a person who fails to comply with a citation under this section:

- (a) refuse to issue or renew the person's license or cannabis production establishment agent registration card; or
- (b) suspend, revoke, or place on probation the person's license or cannabis production establishment registration card.

(8) If the department makes a final determination under this section that an individual violated a provision of this chapter, the individual is guilty of an infraction.

Section 25. Section **4-41b-802** is enacted to read:

4-41b-802. Report.

(1) The department shall report annually to the Health and Human Services Interim Committee on the number of applications and renewal applications received, the number of each type of cannabis production facility licensed in each county, the amount of cannabis grown by licensees, the amount of cannabis manufactured into cannabis products by licensees, the number of licenses revoked, and the expenses incurred and revenues generated from the medical cannabis program.

(2) The department may not include personally identifying information in the report.

Section 26. Section **10-9a-104** is amended to read:

10-9a-104. Stricter requirements.

(1) Except as provided in Subsection (2), a municipality may enact an ordinance imposing stricter requirements or higher standards than are required by this chapter.

(2) A municipality may not impose stricter requirements or higher standards than are required by:

- (a) Section 4-41b-405;
- ~~((a))~~ (b) Section 10-9a-305; ~~[and]~~
- ~~((b))~~ (c) Section 10-9a-514[.]; and
- (d) Section 26-60b-506.

Section 27. Section **17-27a-104** is amended to read:

17-27a-104. Stricter requirements.

(1) Except as provided in Subsection (2), a county may enact an ordinance imposing stricter requirements or higher standards than are required by this chapter.

(2) A county may not impose stricter requirements or higher standards than are required by:

- (a) Section 4-41b-405;
- ~~((a))~~ (b) Section 17-27a-305; ~~[and]~~
- ~~((b))~~ (c) Section 17-27a-513[.]; and
- (d) Section 26-60b-506.

Section 28. Section **26-61-202** is amended to read:

26-61-202. Cannabinoid Product Board -- Duties.

(1) The board shall review any available research related to the human use of cannabis, a cannabinoid product, or an expanded cannabinoid product that:

- (a) was conducted under a study approved by an IRB; or
- (b) was conducted or approved by the federal government.

(2) Based on the research described in Subsection (1), the board shall evaluate the safety and efficacy of cannabis, cannabinoid products, and expanded cannabinoid products, including:

- (a) medical conditions that respond to cannabis, cannabinoid products, and expanded cannabinoid products;
- (b) ~~[cannabinoid]~~ dosage amounts and medical dosage forms; and

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- (c) interaction of cannabis, cannabinoid products, and expanded cannabinoid products with other treatments.
- (3) Based on the board's evaluation under Subsection (2), the board shall develop guidelines for [a physician recommending] treatment with cannabis, a cannabinoid product, and an expanded cannabinoid product that include[s] a list of medical conditions, if any, that the board determines are appropriate for treatment with cannabis, a cannabinoid product, or an expanded cannabinoid product.
- (4) The board shall submit the guidelines described in Subsection (3) to:
- (a) the director of the Division of Occupational and Professional Licensing; and
 - (b) the Health and Human Services Interim Committee.
- (5) The board shall report the board's findings before November 1 of each year to the Health and Human Services Interim Committee.
- (6) Guidelines developed pursuant to this section may not limit the availability of cannabis, cannabinoid products, or expanded cannabinoid products permitted pursuant to Title 4, Chapter 41b, Cannabis Production Establishment or Title 26, Chapter 60b, Medical Cannabis Act.
- Section 29. Section **26-60b-101** is enacted to read:

CHAPTER 61b. MEDICAL CANNABIS ACT Part 1. General Provisions

26-60b-101. Title.

This chapter is known as "Medical Cannabis Act."

Section 30. Section **26-60b-102** is enacted to read:

26-60b-102. Definitions.

As used in this chapter:

- (1) "Cannabis" means the same as that term is defined in Section 58-37-3.6b.
- (2) "Cannabis cultivation facility" means the same as that term is defined in Section 4-41b-102.
- (3) "Cannabis dispensary" means a person that:
 - (a) acquires or intends to acquire cannabis or a cannabis product from a cannabis production establishment and acquires or intends to acquire a medical cannabis device;
 - (b) possesses cannabis, a cannabis product, or a medical cannabis device; and
 - (c) sells or intends to sell cannabis, a cannabis product, or a medical cannabis device.
- (4) "Cannabis dispensary agent" means an owner, officer, director, board member, employee, or volunteer of a cannabis dispensary.
- (5) "Cannabis dispensary agent registration card" means a registration card issued by the department that authorizes an individual to act as a cannabis dispensary agent.
- (6) "Cannabis processing facility" means the same as that term is defined in Section 4-41b-102.
- (7) "Cannabis product" means the same as that term is defined in Section 58-37-3.6b.
- (8) "Cannabis production establishment agent" means the same as that term is defined in Section 4-41b-102.
- (9) "Cannabis production establishment agent registration card" means the same as that term is defined in Section 4-41b-102.
- (10) "Community location" means a public or private school, a church, a public library, a public playground, or a public park.
- (11) "Designated caregiver" means an individual:
 - (a) whom a patient with a medical cannabis card designates as the patient's caregiver; and
 - (b) registers with the department under Section 26-60b-202.
- (12) "Independent cannabis testing laboratory" means the same as that term is defined in Section 4-41b-102.
- (13) "Inventory control system" means the system described in Section 4-41b-103.
- (14) "Medical cannabis card" means an official card issued by the department to an individual with a qualifying illness, or the individual's designated caregiver under this chapter, that is connected to the electronic verification system.
- (15) "Medical cannabis device" means the same as that term is defined in Section 58-37-3.6b.
- (16) "Medical Cannabis Restricted Account" means the account created in Section 26-60b-109.
- (17) "Physician" means an individual who is qualified to recommend cannabis under Section 26-60b-107.
- (18) "Qualifying illness" means a condition described in Section 26-60b-105.
- (19) "State electronic verification system" means the system described in Section 26-60b-103.

Section 31. Section **26-60b-103** is enacted to read:

26-60b-103. Electronic verification system.

- (1) The Department of Agriculture and Food, the Department of Health, the Department of Public Safety, and the Department of Technology Services shall:
 - (a) enter into a memorandum of understanding in order to determine the function and operation of an electronic verification system;
 - (b) coordinate with the Division of Purchasing, under Title 63G, Chapter 6a, Utah Procurement Code, to develop a request for proposals for a third-party provider to develop and maintain an electronic verification system in coordination with the Department of Technology Services; and
 - (c) select a third-party provider described in Subsection (1)(b).
- (2) The electronic verification system described in Subsection (1) shall:
 - (a) allow an individual, with the individual's physician in the physician's office, to apply for a medical cannabis card;
 - (b) allow a physician to electronically recommend, during a visit with a patient, treatment with cannabis or a cannabis product;
 - (c) connect with an inventory control system used by a cannabis dispensary to track, in real time, and to archive for no more than 60 days, purchase history of cannabis or a cannabis product by a medical cannabis card holder, including the time and date of the purchase, the quantity and type of cannabis or cannabis product purchased, and any cannabis production establishment and cannabis dispensary associated with the cannabis or cannabis product;
 - (d) provide access to the Department of Health and the Department of Agriculture and Food to the extent necessary to carry out the Department of Health's and the Department of Agriculture and Food's functions and responsibilities under this chapter and under Title 4, Chapter 41b, Cannabis Production Establishment;
 - (e) provide access to state or local law enforcement during a traffic stop for the purpose of determining if the individual subject to the traffic stop is complying with state medical cannabis law, or after obtaining a warrant;
 - (f) create a record each time a person accesses the database that identifies the person who accessed the database and the individual whose records are accessed; and
 - (g) (9) be operational no later than March 1, 2020.
- (3) The Department of Health may release de-identified data collected by the system for the purpose of conducting medical research and for providing the report required by Section 26-60b-602.

Section 32. Section **26-60b-104** is enacted to read:

26-60b-104. Preemption.

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This chapter preempts any ordinance or rule enacted by a political subdivision of the state regarding a cannabis dispensary or a medical cannabis card.

Section 33. Section **26-60b-105** is enacted to read:

26-60b-105. Qualifying illness.

(1) For the purposes of this chapter, the following conditions are considered a qualifying illness:

- (a) HIV, acquired immune deficiency syndrome or an autoimmune disorder;
- (b) Alzheimer's disease;
- (c) amyotrophic lateral sclerosis;
- (d) cancer, cachexia, or a condition manifest by physical wasting, nausea, or malnutrition associated with chronic disease;
- (e) Crohn's disease, ulcerative colitis, or a similar gastrointestinal disorder;
- (f) epilepsy or a similar condition that causes debilitating seizures;
- (g) multiple sclerosis or a similar condition that causes persistent and debilitating muscle spasms;
- (h) post-traumatic stress disorder;
- (i) autism;
- (j) a rare condition or disease that affects less than 200,000 persons in the United States, as defined in Section 526 of the Federal Food, Drug, and Cosmetic Act; and
- (k) chronic or debilitating pain in an individual, if:
 - (i) a physician determines that the individual is at risk of becoming chemically dependent on, or overdosing on, opiate-based pain medication; or
 - (ii) a physician determines that the individual is allergic to opiates or is otherwise medically unable to use opiates.

(2) In addition to the conditions described in Subsection (1), a condition approved under Section 26-60b-106, in an individual, on a case-by-case basis, is considered a qualifying illness for the purposes of this chapter.

Section 34. Section **26-60b-106** is enacted to read:

26-60b-106. Compassionate Use Board.

(1) The department shall establish a Compassionate Use Board consisting of:

- (a) five physicians who are knowledgeable about the medicinal use of cannabis and certified by the appropriate board in one of the following specialties: neurology, pain medicine and pain management, medical oncology, psychiatry, infectious disease, internal medicine, pediatrics, and gastroenterology; and
- (b) the director of the Department of Health or the director's designee as a non-voting member.

(2) (a) Two of the members of the board first appointed shall serve for a term of three years and two of the members of the board first appointed shall serve for a term of four years.

(b) After the first members' terms expire, members of the board shall serve for a term of four years and shall be eligible for reappointment.

(c) Any member of the board may serve until a successor is appointed.

(d) The director of the Department of Health or the director's designee shall serve as the chair of the board.

(3) A quorum of the Compassionate Use Board shall consist of three members.

(4) A member of the board may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with Section 63A-3-106, Section 63A-3-107, and rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(5) The Compassionate Use Board shall:

(a) review and recommend to the department approval for an individual who is not otherwise qualified to receive a medical cannabis card to obtain a medical cannabis card for compassionate use if:

(i) the individual offers, in the board's discretion, satisfactory evidence that the individual suffers from a condition that substantially impairs the individual's quality of life and is intractable; and

(ii) the board determines it is in the best interest of the patient to allow the compassionate use of medical cannabis;

(b) meet to receive or review compassionate use petitions quarterly, unless no petitions are pending, or as often as necessary if there are more petitions than the board can receive or review during the board's regular schedule;

(c) complete a review of each petition and recommend approval or denial of the applicant for qualification for a medical cannabis card within 90 days of receipt; and

(d) report, before November 1 of each year, to the Health and Human Services Interim Committee, the number of compassionate use approvals the board issued during the past year and the types of conditions for which the board approved compassionate use.

(6) The department shall review any compassionate use approved by the board under this section to determine if the board properly exercised the board's discretion under this section.

(7) If the department determines the board properly approved an individual for compassionate use under this section, the department shall issue a medical cannabis card.

(8) Any individually identifiable health information contained in a petition received under this section shall be a protected record in accordance with Title 63G, Chapter 2, Government Records Access and Management Act.

(9) The Compassionate Use Board may recommend to the Health and Human Services Interim Committee:

(a) a condition to designate as a qualifying illness under Section 26-60b-105; or

(b) a condition to remove as a qualifying illness under Section 26-60b-105.

Section 35. Section **26-60b-107** is enacted to read:

26-60b-107. Physician qualification.

(1) For the purposes of this chapter, a physician means an individual, other than a veterinarian, who is licensed to prescribe a controlled substance under Title 58, Chapter 37, Utah Controlled Substances Act and who possesses the authority, in accordance with the individual's scope of practice, to prescribe Schedule II controlled substances.

(2) A physician may recommend cannabis if the physician recommends cannabis to no more than 20% of the physician's patients at any given time.

(3) A physician may recommend cannabis to greater than 20% of the physician's patients if the physician is certified, by the appropriate American medical board, in one of the following specialties: anesthesiology, gastroenterology, neurology, oncology, pain and palliative care, psychiatry, or psychiatry.

(4) A physician may recommend cannabis to an individual under this chapter only in the course of a physician-patient relationship after the physician has completed a full assessment of the patient's condition and medical history.

(5)(a) Except as provided in Subsection (5)(b), a physician eligible to recommend cannabis or a cannabis product under this section may not advertise that the physician recommends cannabis or a cannabis product.

(b) A physician may advertise via a website that displays only:

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- (i) a green cross;
- (ii) the location and hours of operation of the physician's office;
- (iii) a qualifying illness that the physician treats; and
- (iv) a scientific study regarding cannabis use.

Section 36. Section **26-60b-108** is enacted to read:

26-60b-108. Standard of care -- Medical practitioners not liable -- No private right of action.

A physician who recommends treatment with cannabis or a cannabis product to an individual in accordance with this chapter may not, based on the recommendation, be subject to civil liability, criminal liability, or licensure sanctions under Title 58, Chapter 67, Utah Medical Practice Act or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act.

Section 37. Section **26-60b-109** is enacted to read:

26-60b-109. Medical Cannabis Restricted Account -- Creation.

(1) There is created in the General Fund a restricted account known as the "Medical Cannabis Restricted Account."

(2) The account created in this section is funded from:

- (a) money deposited into the account by the Department of Agriculture and Food under Title 4, Chapter 41b, Cannabis Production Establishments;
- (b) money deposited into the account by the department under this chapter;
- (c) appropriations made to the account by the Legislature; and
- (d) the interest described in Subsection (3).

(3) Interest earned on the account is deposited in the account.

(4) Money in the account may only be used to fund the state medical cannabis program, including Title 26, Chapter 60b, Medical Cannabis Act and Title 4, Chapter 41b, Cannabis Production Establishments.

Section 38. Section **26-60b-110** is enacted to read:

26-60b-110. Nondiscrimination for use of cannabis, a cannabis product, or a medical cannabis device.

(1) For purposes of medical care, including organ and tissue transplants, the use of cannabis by a patient who holds a medical cannabis card in accordance with this chapter is considered the equivalent of the authorized use of any other medication used at the discretion of a physician and does not constitute the use of an illicit substance or otherwise disqualify an individual from needed medical care.

(2) No landlord may refuse to lease to and may not otherwise penalize a person solely for the person's status as a medical cannabis card holder, unless failing to do so would cause the landlord to lose a monetary or licensing-related benefit under federal law.

Section 39. Section **26-60b-201** is enacted to read:

Part 2. Medical Cannabis Card Registration

26-60b-201. Medical cannabis card -- Application -- Fees -- Database.

(1) The Department of Health shall, no later than March 1, 2020, and within 15 days after an individual submits an application in compliance with this section, issue a medical cannabis card to an individual who complies with this section.

(2) An individual is eligible for a medical cannabis card if:

- (a) the individual is at least 18 years old, the individual is a Utah resident, and treatment with medical cannabis has been recommended by the individual's physician under Subsection (4); or
- (b) the individual is the parent or legal guardian of a minor, the individual is at least 18 years old, the individual is a Utah resident, and treatment with medical cannabis has been recommended by the minor's physician under Subsection (4).

(3) An individual who is eligible for a medical cannabis card under Subsection (2) shall submit an application for a medical cannabis card to the department via an electronic application connected to the electronic verification system, with the recommending physician while in the recommending physician's office, and that includes the individual's name, gender, age, and address.

(4) A physician who recommends treatment with medical cannabis to an individual or minor shall:

- (a) state in the physician's recommendation that the individual suffers from a qualifying illness, including the type of qualifying illness, and that the individual may benefit from treatment with cannabis or a cannabis product; and
- (b) before recommending cannabis or a cannabis product, look up the individual in the controlled substance database created in Section 58-37f-201.

(5) A medical cannabis card issued by the department under this section is valid for the lesser of an amount of time determined by the physician or six months.

(6) An individual who has been issued a medical cannabis card under this section may:

- (a) carry a valid medical cannabis card with the patient's name;
- (b) purchase, possess, and transport, in accordance with this chapter, cannabis, a cannabis product, or a medical cannabis device;
- (c) use or assist with the use of medical cannabis or medical cannabis products to treat the qualifying illness or symptoms associated with the qualifying illness of the person for whom medical cannabis has been recommended; and
- (d) after January 1, 2021, if a licensed cannabis dispensary is not operating within 100 miles of the medical cannabis card holder's primary residence, grow up to six cannabis plants for personal medical use within an enclosed and locked space and not within view from a public place and that is not within 600 feet of a community location or within 300 feet of an area zoned exclusively for residential use, as measured from the nearest entrance to the space and following the shortest route or ordinary pedestrian travel to the property boundary of the community location or residential area.

(7) The department may establish procedures, by rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement the medical cannabis card application and issuance provisions of this section.

(8)(a) A person may submit, to the department, a request to conduct a medical research study using medical cannabis cardholder data contained in the electronic verification system.

(b) The department shall review a request submitted under Subsection (8)(a) to determine if the medical research study is valid.

(c) If the department determines that the medical research study is valid under Subsection (8)(b), the department shall notify a relevant medical cannabis cardholder asking for the medical cannabis cardholder's participation in the study.

(d) The department may release, for the purposes of a study, information about a medical cannabis cardholder who consents to participation under Subsection (8)(c).

(e) The department may establish standards for a medical research study's validity, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Section 40. Section **26-60b-202** is enacted to read:

26-60b-202. Medical cannabis card --- Designated caregiver -- Registration -- Renewal -- Revocation.

(1) An individual may designate up to two individuals to serve as designated caregivers for the individual if:

- (a) the individual has a valid medical cannabis card under Section 26-60b-201; and

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- (b) a physician determines that, due to physical difficulty or undue hardship, the individual needs assistance to obtain cannabis or a cannabis product from a cannabis dispensary.
- (2) An individual registered as a designated caregiver under this section may:
- (a) carry a valid medical cannabis card with the designating patient's name and the designated caregiver's name;
 - (b) purchase, possess, and transport, in accordance with this chapter, cannabis, a cannabis product, or a medical cannabis device on behalf of the designating patient;
 - (c) accept reimbursement from the designating patient for direct costs incurred by the designated caregiver for assisting with the designating patient's medicinal use of cannabis; and
 - (d) after January 1, 2021, if a licensed cannabis dispensary is not operating within 100 miles of the designating patient's primary residence, assist the designating patient with growing up to six cannabis plants for personal medicinal use within an enclosed and locked space and not within view from a public place and that is not within 600 feet of a community location or within 300 feet of an area zoned exclusively for residential use, as measured from the nearest entrance to the space and following the shortest route or ordinary pedestrian travel to the property boundary of the community location or residential area.
- (3) The department shall, within 30 days after an individual submits an application in compliance with this section, issue a medical cannabis card to an individual designated as a caregiver under Subsection (1) and who complies with this section.
- (4) An individual is eligible for a medical cannabis card as a designated caregiver if the individual:
- (a) is at least 18 years old;
 - (b) is a Utah resident;
 - (c) pays, to the department, a fee established by the department in accordance with Section 63J-1-504, plus the cost of a criminal background check required by Section 26-60b-203; and
 - (d) has not been convicted of an offense that is a felony under either state or federal law, unless any sentence imposed was completed seven or more years earlier.
- (5) An individual who is eligible for a medical cannabis card as a designated caregiver shall submit an application for a medical cannabis card to the department via an electronic application connected to the electronic verification system and shall include the individual's name, gender, age, and address and the name of the patient that designated the individual under Subsection (1).
- (6) A medical cannabis card issued by the department under this section is valid for the lesser of an amount of time determined by the physician, by the patient, or 6 months.
- (7) A medical cannabis card is renewable for a designated caregiver if, at the time of renewal:
- (a) the individual with a medical cannabis card described in Subsection (1) renews the caregiver's designation; and
 - (b) the designated caregiver meets the requirements of Subsection (4).
- (8) A designated caregiver may not charge an individual a fee to act as the individual's designated caregiver or for services provided.
- (9) The Department of Health may revoke a designated caregiver's medical cannabis card if the individual:
- (a) violates this chapter; or
 - (b) is convicted of an offense that is a felony under either state or federal law.

Section 41. Section 26-60b-203 is enacted to read:

26-60b-203. Designated caregiver -- Criminal background check.

- (1) An individual registered as a designated caregiver under Section 26-60b-202 shall submit to a criminal background check in accordance with Subsection (2).
- (2) Each designated caregiver shall:
- (a) submit, to the department, a fingerprint card in a form acceptable to the department and the Department of Public Safety; and
 - (b) consent to a fingerprint background check by:
 - (i) the Utah Bureau of Criminal Identification; and
 - (ii) the Federal Bureau of Investigation.
- (3) The Department of Public Safety shall complete a Federal Bureau of Investigation Criminal Background Check for each designated caregiver under Subsection (2) and report the results of the background check to the department.

Section 42. Section 26-60b-204 is enacted to read:

26-60b-204. Medical cannabis card -- Patient and designated caregiver requirements -- Rebuttable presumption.

- (1) An individual who has a medical cannabis card and who possesses cannabis or a cannabis product outside of the individual's residence shall:
- (a) carry, with the individual at all times, the individual's medical cannabis card;
 - (b) carry, with the cannabis or cannabis product, a label that identifies that the cannabis or cannabis product was originally sold from a licensed cannabis dispensary and includes an identification number that links the cannabis or cannabis product to the inventory control system; and
 - (c) possess not more than four ounces of unprocessed cannabis or an amount of cannabis product that contains 20 or fewer grams of tetrahydrocannabinol or cannabidiol.
- (2)(a) Except as described in Subsection (2)(b), an individual who has a medical cannabis card may not use cannabis or a cannabis product in public view.
- (b) An individual may use cannabis or a cannabis product in public view in the event of a medical emergency.
- (3) An individual possesses cannabis or a cannabis product in compliance with Subsection (1), or a medical cannabis device that corresponds with the cannabis or cannabis product:
- (a) there is a rebuttable presumption that the individual possesses the cannabis, cannabis product, or medical cannabis device legally; and
 - (b) a law enforcement officer does not have probable cause, based solely on the individual's possession of the cannabis, cannabis product, or medical cannabis device, to believe that the individual is engaging in illegal activity.
- (4)(a) If a law enforcement officer stops an individual who possesses cannabis, a cannabis product, or a medical cannabis device, and the individual represents to the law enforcement officer that the individual holds a valid medical cannabis card, but the individual does not have the medical cannabis card in the individual's possession at the time of the stop by the law enforcement officer, the law enforcement officer shall attempt to access the electronic verification system to determine whether the individual holds a valid medical cannabis card.
- (b) If the law enforcement officer is able to verify that the individual described in Subsection (4)(a) holds a valid medical cannabis card, the law enforcement officer:
- (i) may not arrest or take the individual into custody for the sole reason that the individual is in possession of cannabis, a cannabis product, or a medical cannabis device; and
 - (ii) may not seize the cannabis, cannabis product, or medical cannabis device.
- (5) An individual who possesses cannabis, a cannabis product, or a medical cannabis device in violation of Subsection (1)(a) or Subsection 1(b) is guilty of an infraction and subject to a \$100 fine.

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Section 43. Section **26-60b-301** is enacted to read:

Part 3. Cannabis Dispensary License

26-60b-301. Cannabis dispensary -- License -- Eligibility.

- (1) A person may not operate as a cannabis dispensary without a license issued by the department issued under this part.
- (2) Subject to Subsections (5) and to Section 26-60b-304, the department shall, within 90 business days after receiving a complete application, issue a license to operate a cannabis dispensary to a person who submits to the department:
 - (a) a proposed name and address where the person will operate the cannabis dispensary that is not within 600 feet of a community location or within 300 feet of an area zoned exclusively for residential use, as measured from the nearest entrance to the cannabis production establishment by following the shortest route of ordinary pedestrian travel to the property boundary of the community location or residential area;
 - (b) the name and address of any individual who has a financial or voting interest of two percent or greater in the proposed cannabis dispensary or who has the power to direct or cause the management or control of a proposed cannabis production establishment;
 - (c) financial statements demonstrating that the person possesses a minimum of \$250,000 in liquid assets available for each application submitted to the department;
 - (d) an operating plan that complies with Section 26-60b-303 and that includes operating procedures to comply with the operating requirements for a cannabis dispensary described in this chapter and with any laws adopted by the municipality or county that are consistent with Section 26-60b-506;
 - (e) if the municipality or county where the proposed cannabis production establishment would be located has enacted zoning restrictions, a sworn statement certifying that the proposed cannabis dispensary is in compliance with the restrictions;
 - (f) if the municipality or county where the proposed cannabis dispensary would be located requires a local permit or license, a copy of the application for the local permit or license; and
 - (g) an application fee established by the department in accordance with Section 63J-1-504 that is necessary to cover the department's cost to implement this part;
- (4) If the department determines that a cannabis dispensary is eligible for a license under this section, the department shall charge the cannabis dispensary an initial license fee in an amount determined by the department in accordance with Section 63J-1-504.
- (5) The department may not issue a license to operate a cannabis dispensary to an applicant if any individual who has a financial or voter interest of two percent or greater in the cannabis dispensary applicant or who has power to direct or cause the management or control of the applicant:
 - (a) has been convicted of an offense that is a felony under either state or federal law; or
 - (b) is less than 21 years of age.
- (6) The department may revoke a license under this part if the cannabis dispensary is not operating within one year of the issuance of the initial license.
- (7) The department shall deposit the proceeds of a fee imposed by this section in the Medical Cannabis Restricted Account.
- (8) The department shall begin accepting applications under this part no later than March 1, 2020.

Section 44. Section **26-60b-302** is enacted to read:

26-60b-302. Renewal.

- (1) Except as provided in Subsection (3), the department shall renew a person's license under this part every two years if, at the time of renewal:
 - (a) the person meets the requirements of Section 26-60b-301; and
 - (b) the person pays the department a license renewal fee in an amount determined by the department in accordance with Section 63J-1-504.
- (2)(a) If a licensed cannabis dispensary abandons the cannabis dispensary's license, the department shall publish notice of an available license in a newspaper of general circulation for the geographic area in which the cannabis dispensary license is available or on the Utah Public Notice Website established in Section 63F-1-701.
- (b) The department may establish criteria, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for what actions by a cannabis dispensary constitute abandonment of a cannabis dispensary license.

Section 45. Section **26-60b-303** is enacted to read:

26-60b-303. Operating plan.

- (1) A person applying for a cannabis dispensary license shall submit to the department a proposed operation plan for the cannabis dispensary that complies with this section and that includes:
 - (a) a description of the physical characteristics of the proposed facility, including a floor plan and an architectural elevation;
 - (b) a description of the credentials and experience of:
 - (i) each officer, director, or owner of the proposed cannabis dispensary; and
 - (ii) any highly skilled or experienced prospective employee;
 - (c) the cannabis dispensary's employee training standards;
 - (d) a security plan; and
 - (e) a description of the cannabis dispensary's inventory control system, including a plan to make the inventory control system compatible with the electronic verification system.

Section 46. Section **26-60b-304** is enacted to read:

26-60b-304. Maximum number of licenses.

- (1) The department may not issue more than the greater of, in each county in the state:
 - (a) one cannabis dispensary license; or
 - (b) an amount of cannabis dispensary licenses equal to the number of residents in the county divided by 150,000, rounded up to the nearest greater whole number.
- (2) If there are more qualified applicants than there are available licenses for cannabis dispensaries, the department shall evaluate the applicants and award the license to the applicant that best demonstrates:
 - (a) experience with establishing and successfully operating a business that involves complying with a regulatory environment, tracking inventory, and training, evaluating, and monitoring employees;
 - (b) an operating plan that will best ensure the safety and security of patrons and the community;
 - (c) positive connections to the local community;
 - (d) the suitability of the proposed location and its accessibility for qualifying patients; and
 - (e) the extent to which the applicant can reduce the cost of cannabis or cannabis products for patients.
- (3) The department may conduct a face-to-face interview with an applicant for a license that the department evaluates under Subsection (2).

Section 47. Section **26-60b-401** is enacted to read:

Part 4. Cannabis Dispensary Agents

26-60b-401. Cannabis dispensary agent -- Registration.

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- (1) An individual may not serve as a cannabis dispensary agent of a cannabis dispensary unless the individual is registered by the department as a cannabis dispensary agent.
- (2) A physician may not act as a cannabis dispensary agent.
- (3) The department shall, within 15 days after receiving a complete application from a cannabis dispensary on behalf of a prospective cannabis dispensary agent, register and issue a cannabis dispensary agent registration card to an individual who:
 - (a) provides to the department the individual's name and address and the name and location of the licensed cannabis dispensary where the individual seeks to act as the cannabis dispensary agent; and
 - (b) pays a fee to the department, in an amount determined by the department in accordance with Section 63J-1-504, that is necessary to cover the department's cost to implement this part.
- (4) The department shall designate, on an individual's cannabis dispensary agent registration card, the name of the cannabis dispensary where the individual is registered as an agent.
- (5) A cannabis dispensary agent shall comply with a certification standard developed by the department, or a third party certification standard designated by the department, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- (6) The certification standard described in Subsection (5) shall include training in:
 - (a) Utah medical cannabis law; and
 - (b) cannabis dispensary best practices.
- (7) The department may revoke or refuse to issue the cannabis dispensary agent registration card of an individual who:
 - (a) violates the requirements of this chapter; or
 - (b) is convicted of an offense that is a felony under state or federal law.

Section 48. Section **26-60b-402** is enacted to read:

26-60b-402. Cannabis dispensary agents -- Criminal background checks.

- (1) Each applicant shall submit, at the time of application, from each individual who has a financial or voting interest of two percent or greater in the applicant or who has the power to direct or cause the management or control of the applicant:
 - (a) a fingerprint card in a form acceptable to the department; and
 - (b) consent to a fingerprint background check by the Utah Bureau of Criminal Identification and the Federal Bureau of Investigation.
- (2) The department shall request that the Department of Public Safety complete a Federal Bureau of Investigation criminal background check for each individual described in Subsection (1).

Section 49. Section **26-60b-403** is enacted to read:

26-60b-403. Cannabis dispensary agent registration card -- Rebuttable presumption.

- (1) A cannabis dispensary agent who is registered with the department under section 426-60b-401 shall carry the individual's cannabis dispensary agent registration card with the individual at all times when:
 - (a) the individual is on the premises of a cannabis dispensary; and
 - (b) the individual is transporting cannabis, a cannabis product, or a medical cannabis device between two cannabis production establishments or between a cannabis production establishment and a cannabis dispensary.
- (2) If an individual handling cannabis, a cannabis product, or a medical cannabis device at a cannabis dispensary, or transporting cannabis, a cannabis product, or a medical cannabis device, possesses the cannabis, cannabis product, or medical cannabis device in compliance with Subsection (1):
 - (a) there is a rebuttable presumption that the individual possesses the cannabis, cannabis product, or medical cannabis device legally; and
 - (b) a law enforcement officer does not have probable cause, based solely on the individual's possession of the cannabis, cannabis product, or medical cannabis device in compliance with Subsection (1), to believe that the individual is engaging in illegal activity.
- (3) An individual who violates Subsection (1) is:
 - (a) guilty of an infraction; and
 - (b) is subject to a \$100 fine.

Section 50. Section **26-60b-501** is enacted to read:

Part 5. Cannabis Dispensary Operation

26-60b-501. Operating requirements -- General.

- (1) (a) A cannabis dispensary shall operate in accordance with the operating plan provided to the department under Section 26-60b-303.
(b) A cannabis dispensary shall notify the department before a change in the cannabis dispensary's operating plan.
- (2) A cannabis dispensary shall operate:
 - (a) except as provided in Subsection (5), in a facility that is accessible only by an individual with a valid cannabis dispensary agent registration card or a medical cannabis card; and
 - (b) at the physical address provided to the department under Section 26-60b-301.
- (3) A cannabis dispensary may not employ any person who is younger than 21 years of age.
- (4) A cannabis dispensary shall conduct a background check into the criminal history of every person who will become an agent of the cannabis dispensary and may not employ any person who has been convicted of an offense that is a felony under either state or federal law.
- (5) A cannabis dispensary may authorize an individual who is not a cannabis dispensary agent to access the cannabis dispensary if the cannabis dispensary tracks and monitors the individual at all times while the individual is at the cannabis dispensary and maintains a record of the individual's access.
- (6) A cannabis dispensary shall operate in a facility that has:
 - (a) a single, secure public entrance;
 - (b) a security system with a backup power source that:
 - (i) detects and records entry into the cannabis dispensary; and
 - (ii) provides notice of an unauthorized entry to law enforcement when the cannabis dispensary is closed; and
 - (c) a lock on any area where the cannabis dispensary stores cannabis or a cannabis product.
- (7) A cannabis dispensary shall post, clearly and conspicuously in the cannabis dispensary, the limit on the purchase of cannabis described in Subsection 26-60b-502(3).
- (8) A cannabis dispensary may not allow any individual to consume cannabis on the property or premises of the cannabis dispensary.
- (9) A cannabis dispensary may not sell cannabis or a cannabis product without first indicating on the cannabis or cannabis product label the name of the cannabis dispensary.

Section 51. Section **26-60b-502** is enacted to read:

26-60b-502. Dispensing -- Amount a cannabis dispensary may dispense -- Reporting -- Form of cannabis or cannabis product.

- (1) A cannabis dispensary may only sell, subject to this chapter:
 - (a) cannabis;

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- (b) a cannabis product;
 - (c) a medical cannabis device; or
 - (d) educational materials related to the medical use of cannabis.
- (2) A cannabis dispensary may only sell the items listed in Subsection (1) to an individual with a medical cannabis card issued by the department.
- (3) A cannabis dispensary may not dispense on behalf of any one individual with a medical cannabis card, in any one 14-day period:
- (a) an amount of unprocessed cannabis that exceeds two ounces by weight; or
 - (b) an amount of cannabis products that contains, in total, greater than 10 grams of tetrahydrocannabinol or cannabidiol.
- (4) An individual with a medical cannabis card may not purchase more cannabis or cannabis products than the amounts designated in Subsection (3) in any one 14-day period.
- (5) A cannabis dispensary shall:
- (a) access the electronic verification system before dispensing cannabis or a cannabis product to an individual with a medical cannabis card in order to determine if the individual has met the maximum amount of cannabis or cannabis products described in Subsection (3); and
 - (b) submit a record to the electronic verification system each time the cannabis dispensary dispenses cannabis or a cannabis product to an individual with a medical cannabis card.
- (6)(a) Except as provided in Subsection (6)(b), a cannabis dispensary may not sell medical cannabis in the form of a cigarette or a medical cannabis device that is intentionally designed or constructed to resemble a cigarette.
- (b) A cannabis dispensary may sell a medical cannabis device that warms cannabis material into a vapor without the use of a flame and that delivers cannabis to an individual's respiratory system.
- (7) A cannabis dispensary may give to an individual with a medical cannabis card, at no cost, a product that the cannabis dispensary is allowed to sell under Subsection (1).

Section 52. Section **26-60b-503** is enacted to read:

26-60b-503. Inspections.

The department may inspect the records and facility of a cannabis dispensary at any time in order to determine if the cannabis dispensary complies with the licensing requirements of this part.

Section 53. Section **26-60b-504** is enacted to read:

26-60b-504. Advertising.

- (1) Except as provided in Subsections (2) and (3), a cannabis dispensary may not advertise in any medium.
- (2) A cannabis dispensary may use signage on the outside of the cannabis dispensary that includes only:
 - (a) the cannabis dispensary's name and hours of operation; and
 - (b) a green cross.
- (3) A cannabis dispensary may maintain a website that includes information about:
 - (a) the location and hours of operation of the cannabis dispensary;
 - (b) the products and services available at the cannabis dispensary;
 - (c) personnel affiliated with the cannabis dispensary;
 - (d) best practices that the cannabis dispensary upholds; and
 - (e) educational materials related to the medical use of cannabis.

Section 54. Section **26-60b-505** is enacted to read:

26-60b-505. Cannabis, cannabis product, or medical cannabis device transportation.

- (1) Except for an individual with a valid medical cannabis card, an individual may not transport cannabis, a cannabis product, or a medical cannabis device unless the individual is:
 - (a) a registered cannabis production establishment agent; or
 - (b) a registered cannabis dispensary agent.
- (2) Except for an individual with a valid medical cannabis card, an individual transporting cannabis, a cannabis product, or a medical cannabis device shall possess a transportation manifest that:
 - (a) includes a unique identifier that links the cannabis, cannabis product, or medical cannabis device to a relevant inventory control system;
 - (b) includes origin and destination information for any cannabis, cannabis product, or medical cannabis device the individual is transporting; and
 - (c) indicates the departure and arrival times and locations of the individual transporting the cannabis, cannabis product, or medical cannabis device.
- (3) In addition to the requirements in Subsections (1) and (2), the department may establish, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, requirements for transporting cannabis, a cannabis product, or a medical cannabis device that are related to safety for human cannabis or cannabis product consumption.
- (4) An individual who transports cannabis, a cannabis product, or a medical cannabis device with a manifest that does not meet the requirements of Subsection (2) is:
 - (a) guilty of an infraction; and
 - (b) subject to a \$100 fine.

Section 55. Section **26-60b-506** is enacted to read:

26-60b-506. Local control.

- (1) A municipality or county may not enact a zoning ordinance that prohibits a cannabis dispensary from operating in a location within the municipality's or county's jurisdiction on the sole basis that the cannabis dispensary is a cannabis dispensary.
- (2) A municipality or county may not deny or revoke a permit or license to operate a cannabis dispensary on the sole basis that the applicant or cannabis dispensary violates a law of the United States.
- (3) A municipality or county may enact ordinances not in conflict with this chapter governing the time, place, and manner of cannabis dispensary operations in the municipality or county.

Section 56. Section **26-60b-601** is enacted to read:

Part 6. Enforcement

26-60b-601. Enforcement -- Fine -- Citation.

- (1) The department may, for a violation of this chapter by a person who is a cannabis dispensary or cannabis dispensary agent:
 - (a) revoke the person's license or cannabis dispensary agent registration card;
 - (b) refuse to renew the person's license or cannabis dispensary agent registration card; or
 - (c) assess the person an administrative penalty.
- (2) The department shall deposit an administrative penalty imposed under this section in the general fund.
- (3) The department may, for a person subject to an uncontested citation, a stipulated settlement, or a finding of a violation in an adjudicative pro-

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ceeding under this section:

- (a) assess the person a fine, established in accordance with Section 63J-1-504, of up to \$5,000 per violation, in accordance with a fine schedule established by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or
- (b) order the person to cease and desist from the action that creates a violation.
- (4) The department may not revoke a cannabis dispensary's license without first directing the cannabis dispensary to appear before an adjudicative proceeding conducted under Title 63G, Chapter 4, Administrative Procedures Act.
- (5) If, within 20 calendar days after the day on which the department issues a citation for a violation of this chapter, the person that is the subject of the citation fails to request a hearing to contest the citation, the citation becomes the department's final order.
- (6) The department may, for a person who fails to comply with a citation under this section:
 - (a) refuse to issue or renew the person's license or cannabis dispensary agent registration card; or
 - (b) suspend, revoke, or place on probation the person's license or cannabis dispensary agent registration card.
- (7) If the department makes a final determination under this section that an individual violated a provision of this chapter, the individual is guilty of an infraction.

Section 57. **26-60b-602** is enacted to read:

26-60b-602. Report.

- (1) The department shall report annually to the Health and Human Services Interim Committee on the number of applications and renewal applications filed for medical cannabis cards, the number of qualifying patients and designated caregivers, the nature of the debilitating medical conditions of the qualifying patients, the age and county of residence of cardholders, the number of medical cannabis cards revoked, the number of practitioners providing recommendations for qualifying patients, the number of license applications and renewal license applications received, the number of licenses issued in each county, the number of licenses revoked, and the expenses incurred and revenues generated from the medical cannabis program.
- (2) The department may not include personally identifying information in the report.

Section 58. **Section 30-3-10** is amended to read:

30-3-10. Custody of children in case of separation or divorce -- Custody consideration.

- (1) If a husband and wife having minor children are separated, or their marriage is declared void or dissolved, the court shall make an order for the future care and custody of the minor children as it considers appropriate.
 - (a) In determining any form of custody, including a change in custody, the court shall consider the best interests of the child without preference for either the mother or father solely because of the biological sex of the parent and, among other factors the court finds relevant, the following:
 - (i) the past conduct and demonstrated moral standards of each of the parties;
 - (ii) which parent is most likely to act in the best interest of the child, including allowing the child frequent and continuing contact with the non-custodial parent;
 - (iii) the extent of bonding between the parent and child, meaning the depth, quality, and nature of the relationship between a parent and child;
 - (iv) whether the parent has intentionally exposed the child to pornography or material harmful to a minor, as defined in Section 76-10-1201; and
 - (v) those factors outlined in Section 30-3-10.2.
 - (b) There shall be a rebuttable presumption that joint legal custody, as defined in Section 30-3-10.1, is in the best interest of the child, except in cases where there is:
 - (i) domestic violence in the home or in the presence of the child;
 - (ii) special physical or mental needs of a parent or child, making joint legal custody unreasonable;
 - (iii) physical distance between the residences of the parents, making joint decision making impractical in certain circumstances; or
 - (iv) any other factor the court considers relevant including those listed in this section and Section 30-3-10.2.
 - (c) The person who desires joint legal custody shall file a proposed parenting plan in accordance with Sections 30-3-10.8 and 30-3-10.9. A presumption for joint legal custody may be rebutted by a showing by a preponderance of the evidence that it is not in the best interest of the child.
 - (d) The children may not be required by either party to testify unless the trier of fact determines that extenuating circumstances exist that would necessitate the testimony of the children be heard and there is no other reasonable method to present their testimony.
 - (e) The court may inquire of the children and take into consideration the children's desires regarding future custody or parent-time schedules, but the expressed desires are not controlling and the court may determine the children's custody or parent-time otherwise. The desires of a child 14 years of age or older shall be given added weight, but is not the single controlling factor.
 - (f) If interviews with the children are conducted by the court pursuant to Subsection (1)(e), they shall be conducted by the judge in camera. The prior consent of the parties may be obtained but is not necessary if the court finds that an interview with the children is the only method to ascertain the child's desires regarding custody.
- (2) In awarding custody, the court shall consider, among other factors the court finds relevant, which parent is most likely to act in the best interests of the child, including allowing the child frequent and continuing contact with the noncustodial parent as the court finds appropriate.
- (3) If the court finds that one parent does not desire custody of the child, the court shall take that evidence into consideration in determining whether to award custody to the other parent.
- (4) (a) Except as provided in Subsection (4)(b), a court may not discriminate against a parent due to a disability, as defined in Section 57-21-2, in awarding custody or determining whether a substantial change has occurred for the purpose of modifying an award of custody.
 - (b) If a court takes a parent's disability into account in awarding custody or determining whether a substantial change has occurred for the purpose of modifying an award of custody, the parent with a disability may rebut any evidence, presumption, or inference arising from the disability by showing that:
 - (i) the disability does not significantly or substantially inhibit the parent's ability to provide for the physical and emotional needs of the child at issue; or
 - (ii) the parent with a disability has sufficient human, monetary, or other resources available to supplement the parent's ability to provide for the physical and emotional needs of the child at issue.
- (c) Nothing in this section may be construed to apply to adoption proceedings under Title 78B, Chapter 6, Part 1, Utah Adoption Act.
- (5) This section establishes neither a preference nor a presumption for or against joint physical custody or sole physical custody, but allows the court and the family the widest discretion to choose a parenting plan that is in the best interest of the child.
- (6) In considering the past conduct and demonstrated moral standards of each of the parties as described under Subsection (1)(a)(i), a court may not discriminate against a parent because of the parent's possession or consumption of cannabis, a cannabis product, or a medical cannabis device, in accordance with Title 26, Chapter 60b, Medical Cannabis Act, or because of the parent's status as a cannabis production establishment agent in accordance with Title 4, Chapter 41b, a cannabis dispensary agent in accordance with Title 26, Chapter 60b, or a medical cannabis card holder in accordance with Title 26, Chapter 60b.

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Section 59. Section **53-1-106.5** is enacted to read:

53-1-106.5. Medical Cannabis Act -- Department duties.

In addition to the duties described in Section 53-1-106, the department shall provide standards for training peace officers and law enforcement agencies in the use of the electronic verification system and collaborate with the Department of Health and the Department of Agriculture and Food to provide standards for training peace officers and law enforcement agencies in medical cannabis law.

Section 60. Section **58-37-3.6b** is enacted to read:

58-37-3.6b. Exemption for possession or use of cannabis to treat a qualifying illness.

(1) As used in this section:

- (a) "Cannabis" means marijuana.
- (b) "Cannabis dispensary" means the same as that term is defined in Section 26-60b-102.
- (c) "Cannabis product" means a product that:
 - (i) is intended for human ingestion; and
 - (ii) contains cannabis or tetrahydrocannabinol.
- (d) "Designated caregiver" means the same as that term is defined in Section 26-60b-102.
- (e) "Drug paraphernalia" means the same as that term is defined in Section 58-37a-3.
- (f) "Marijuana" means the same as that term is defined in Section 58-37-2.
- (g) "Medical cannabis card" means the same as that term is defined in Section 26-60b-102.
- (h) (i) "Medical cannabis device" means a device that an individual uses to ingest cannabis or a cannabis product.
 - (ii) "Medical cannabis device" does not include a device that facilitates cannabis combustion at a temperature of greater than 750 degrees Fahrenheit.
- (i) "Qualifying illness" means the same as that term is defined in Section 26-60b-102.
- (j) "Tetrahydrocannabinol" means a substance derived from cannabis that meets the description in Subsection 58-37-4(2)(a)(iii)(AA).

(2) Notwithstanding any other provision of law, except as otherwise provided in this section:

- (a) an individual who possesses, produces, manufactures, dispenses, distributes, sells, or offers to sell cannabis or a cannabis product or who possesses with intent to produce, manufacture, dispense, distribute, sell, or offer to sell cannabis or a cannabis product is not subject to the penalties described in this title for the conduct to the extent that the individual's conduct complies with:
 - (i) Title 4, Chapter 41b, Cannabis Production Establishment; and
 - (ii) Title 26, Chapter 60b, Medical Cannabis Act;
- (b) an individual who possesses, manufactures, distributes, sells, or offers to sell a medical cannabis device or who possesses with intent to manufacture, distribute, sell, or offer to sell a medical cannabis device is authorized and is not subject to the penalties described in this title for the possession, manufacture, distribution, sale, or offer for sale of drug paraphernalia to the extent that the individual's conduct complies with:
 - (i) Title 4, Chapter 41b, Cannabis Production Establishment; and
 - (ii) Title 26, Chapter 60b, Medical Cannabis Act.

(3) For purposes of state law, except as otherwise provided in this section, activities related to cannabis shall be considered lawful and any cannabis consumed shall be considered legally ingested, as long as the conduct is in accordance with:

- (a) Title 4, Chapter 41b, Cannabis Production Establishment; and
- (b) Title 26, Chapter 60b, Medical Cannabis Act.

(4) It is not lawful for a medical cannabis card holder to smoke cannabis or to use a device to facilitate the smoking of cannabis. An individual convicted of violating this section is guilty of an infraction. For purposes of this section, smoking does not include a means of administration that involves cannabis combustion at a temperature that is not greater than 750 degrees Fahrenheit and that does not involve using a flame.

(5) An individual is not exempt from the penalties described in this title for ingesting cannabis or a cannabis product while operating a motor vehicle.

(6) An individual who is assessed a penalty or convicted of an infraction under Title 4, Chapter 41b, Cannabis Production Establishment, or Title 26, Chapter 60b, Medical Cannabis Act, is not subject to the penalties described in this chapter for:

- (a) the possession, manufacture, sale, or offer for sale of cannabis or a cannabis product; or
- (b) the possession, manufacture, sale, or offer for sale of drug paraphernalia.

Section 61. Section **58-37-3.6c** is enacted to read:

58-37-3.7. Affirmative defense.

(1) Before July 1, 2020, it is an affirmative defense to criminal charges against an individual for the use, possession, or manufacture of marijuana, tetrahydrocannabinol, or marijuana drug paraphernalia under this chapter that the individual would be eligible for a medical cannabis card, and that the individual's conduct would have been lawful, after July 1, 2020.

(2) It is an affirmative defense to criminal charges against an individual for the use or possession of marijuana, tetrahydrocannabinol, or marijuana drug paraphernalia under this chapter if:

- (a) the individual is not a resident of Utah or has been a resident of Utah for less than 45 days and was issued a currently valid medical cannabis identification card or its equivalent under the laws of another state, district, territory, commonwealth, or insular possession of the United States; and
- (b) the individual has been diagnosed with a qualifying illness as described in Section 26-60b-105.

(3) A court shall, for charges that the court dismisses under Subsection (1) or Subsection (2), dismiss the charges without prejudice.

Section 62. Section **58-37-3.6d** is enacted to read:

58-37-3.8. Enforcement.

(1) No law enforcement officer employed by an agency that receives state or local government funds shall expend any state or local resources, including the officer's time, to effect any arrest or seizure of cannabis, or conduct any investigation, on the sole basis of activity the officer believes to constitute a violation of federal law if the officer has reason to believe that such activity is in compliance with the state medical cannabis laws, nor shall any such officer expend any state or local resources, including the officer's time, to provide any information or logistical support related to such activity to any federal law enforcement authority or prosecuting entity.

(2) No agency or political subdivision of Utah may rely on a violation of federal law as the sole basis for taking an adverse action against a person providing professional services to a cannabis dispensary or a cannabis production establishment if the person has not violated the state medical cannabis laws.

Section 63. Section **59-12-104.7** is enacted to read:

59-12-104.7. Exemption from sales tax for medical cannabis.

(1) As used in this section:

- (a) "Cannabis" means the same as that term is defined in Section 58-37-3.6b.
- (b) "Cannabis dispensary" means the same as that term is defined in Section 26-60b-102.

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(c) "Cannabis product" means the same as that term is defined in Section 58-37-3.6b.

(d) "Medical cannabis device" means the same as that term is defined in Section 58-37-3.6b.

(2) In addition to the exemptions described in Section 59-12-104, the sale, by a licensed cannabis dispensary, of cannabis, a cannabis product, or a medical cannabis device, is not subject to the taxes imposed by this chapter.

Section 64. Section **62A-4a-202.1** is amended to read:

62A-4a-202.1. Entering home of a child -- Taking a child into protective custody -- Caseworker accompanied by peace officer -- Preventive services -- Shelter facility or emergency placement.

(1) A peace officer or child welfare worker may not:

(a) enter the home of a child who is not under the jurisdiction of the court, remove a child from the child's home or school, or take a child into protective custody unless authorized under Subsection 78A-6-106(2); or

(b) remove a child from the child's home or take a child into custody under this section solely on the basis of:

(i) educational neglect, truancy, or failure to comply with a court order to attend school[.]; or

(ii) the possession or use of cannabis, a cannabis product, or a medical cannabis device in the home, if the use and possession of the cannabis, cannabis product, or medical cannabis device is in compliance with Title 26, Chapter 60b, Medical Cannabis Act.

(2) A child welfare worker within the division may take action under Subsection (10) accompanied by a peace officer, or without a peace officer when a peace officer is not reasonably available.

(3) (a) If possible, consistent with the child's safety and welfare, before taking a child into protective custody, the child welfare worker shall also determine whether there are services available that, if provided to a parent or guardian of the child, would eliminate the need to remove the child from the custody of the child's parent or guardian.

(b) If the services described in Subsection (3)(a) are reasonably available, they shall be utilized.

(c) In determining whether the services described in Subsection (3)(a) are reasonably available, and in making reasonable efforts to provide those services, the child's health, safety, and welfare shall be the child welfare worker's paramount concern.

(4) (a) A child removed or taken into custody under this section may not be placed or kept in a secure detention facility pending court proceedings unless the child is detainable based on guidelines promulgated by the Division of Juvenile Justice Services.

(b) A child removed from the custody of the child's parent or guardian but who does not require physical restriction shall be given temporary care in:

(i) a shelter facility; or

(ii) an emergency placement in accordance with Section 62A-4a-209.

(c) When making a placement under Subsection (4)(b), the Division of Child and Family Services shall give priority to a placement with a noncustodial parent, relative, or friend, in accordance with Section 62A-4a-209.

(a) If the child is not placed with a noncustodial parent, a relative, or a designated friend, the caseworker assigned to the child shall file a report with the caseworker's supervisor explaining why a different placement was in the child's best interest.

(5) When a child is removed from the child's home or school or taken into protective custody, the caseworker shall give a parent of the child a pamphlet or flier explaining:

(a) the parent's rights under this part, including the right to be present and participate in any court proceeding relating to the child's case;

(b) that it may be in the parent's best interest to contact an attorney and that, if the parent cannot afford an attorney, the court will appoint one;

(c) the name and contact information of a division employee the parent may contact with questions;

(d) resources that are available to the parent, including:

(i) mental health resources;

(ii) substance abuse resources; and

(iii) parenting classes; and

(e) any other information considered relevant by the division.

(6) The pamphlet or flier described in Subsection (5) shall be:

(a) evaluated periodically for its effectiveness at conveying necessary information and revised accordingly;

(b) written in simple, easy-to-understand language; and

(c) available in English and other languages as the division determines to be appropriate and necessary.

Section 65. Section **631-1-226** is amended to read:

631-1-226. Repeal dates, Title 26.

(1) Title 26, Chapter 9f, Utah Digital Health Service Commission Act, is repealed July 1, 2025.

(2) Section 26-10-11 is repealed July 1, 2020.

(3) Section 26-21-23, Licensing of non-Medicaid nursing facility beds, is repealed July 1, 2018.

(4) Title 26, Chapter 33a, Utah Health Data Authority Act, is repealed July 1, 2024.

(5) Title 26, Chapter 36a, Hospital Provider Assessment Act, is repealed July 1, 2016.

(6) Section 26-38-2.5 is repealed July 1, 2017.

(7) Section 26-38-2.6 is repealed July 1, 2017.

(8) Title 26, Chapter 56, Hemp Extract Registration Act, is repealed ~~[July 1, 2016]~~ January 1, 2019.

Section 66. Section **631-1-258** is amended to read:

631-1-258. Repeal dates, Title 58.

(1) Title 58, Chapter 13, Health Care Providers Immunity from Liability Act, is repealed July 1, 2026.

(2) Title 58, Chapter 15, Health Facility Administrator Act, is repealed July 1, 2025.

(3) Title 58, Chapter 20a, Environmental Health Scientist Act, is repealed July 1, 2018.

(4) Section 58-37-4.3 is repealed ~~[July 1, 2016]~~ January 1, 2020.

(5) Title 58, Chapter 40, Recreational Therapy Practice Act, is repealed July 1, 2023.

(6) Title 58, Chapter 41, Speech-Language Pathology and Audiology Licensing Act, is repealed July 1, 2019.

(7) Title 58, Chapter 42a, Occupational Therapy Practice Act, is repealed July 1, 2025.

(8) Title 58, Chapter 46a, Hearing Instrument Specialist Licensing Act, is repealed July 1, 2023.

(9) Title 58, Chapter 47b, Massage Therapy Practice Act, is repealed July 1, 2024.

(10) Title 58, Chapter 61, Part 7, Behavior Analyst Licensing Act, is repealed July 1, 2026.

(11) Title 58, Chapter 72, Acupuncture Licensing Act, is repealed July 1, 2017.

Section 67. Section **78A-6-508** is amended to read:

78A-6-508. Evidence of grounds for termination.

(1) In determining whether a parent or parents have abandoned a child, it is prima facie evidence of abandonment that the parent or parents:

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- (a) although having legal custody of the child, have surrendered physical custody of the child, and for a period of six months following the surrender have not manifested to the child or to the person having the physical custody of the child a firm intention to resume physical custody or to make arrangements for the care of the child;
 - (b) have failed to communicate with the child by mail, telephone, or otherwise for six months;
 - (c) failed to have shown the normal interest of a natural parent, without just cause; or
 - (d) have abandoned an infant, as described in Subsection 78A-6-316(1).
- (2) In determining whether a parent or parents are unfit or have neglected a child the court shall consider, but is not limited to, the following circumstances, conduct, or conditions:
- (a) emotional illness, mental illness, or mental deficiency of the parent that renders the parent unable to care for the immediate and continuing physical or emotional needs of the child for extended periods of time;
 - (b) conduct toward a child of a physically, emotionally, or sexually cruel or abusive nature;
 - (c) habitual or excessive use of intoxicating liquors, controlled substances, or dangerous drugs that render the parent unable to care for the child;
 - (d) repeated or continuous failure to provide the child with adequate food, clothing, shelter, education, or other care necessary for the child's physical, mental, and emotional health and development by a parent or parents who are capable of providing that care;
 - (e) whether the parent is incarcerated as a result of conviction of a felony, and the sentence is of such length that the child will be deprived of a normal home for more than one year;
 - (f) a history of violent behavior; or
 - (g) whether the parent has intentionally exposed the child to pornography or material harmful to a minor, as defined in Section 76-10-1201.
- (3) Notwithstanding Subsection (2)(c), the court may not discriminate against a parent because of the parent's possession or consumption of cannabis, a cannabis product, or a medical cannabis device, in accordance with Title 26, Chapter 60b, Medical Cannabis Act.
- ~~(3)~~ (4) A parent who, legitimately practicing the parent's religious beliefs, does not provide specified medical treatment for a child is not, for that reason alone, a negligent or unfit parent.
- ~~(4)~~ (5) (a) Notwithstanding Subsection (2), a parent may not be considered neglectful or unfit because of a health care decision made for a child by the child's parent unless the state or other party to the proceeding shows, by clear and convincing evidence, that the health care decision is not reasonable and informed.
- (b) Nothing in Subsection ~~(4)~~ (5)(a) may prohibit a parent from exercising the right to obtain a second health care opinion.
- ~~(5)~~ (6) If a child has been placed in the custody of the division and the parent or parents fail to comply substantially with the terms and conditions of a plan within six months after the date on which the child was placed or the plan was commenced, whichever occurs later, that failure to comply is evidence of failure of parental adjustment.
- ~~(6)~~ (7) The following circumstances constitute prima facie evidence of unfitness:
- (a) sexual abuse, sexual exploitation, injury, or death of a sibling of the child, or of any child, due to known or substantiated abuse or neglect by the parent or parents;
 - (b) conviction of a crime, if the facts surrounding the crime are of such a nature as to indicate the unfitness of the parent to provide adequate care to the extent necessary for the child's physical, mental, or emotional health and development;
 - (c) a single incident of life-threatening or gravely disabling injury to or disfigurement of the child;
 - (d) the parent has committed, aided, abetted, attempted, conspired, or solicited to commit murder or manslaughter of a child or child abuse homicide; or
 - (e) the parent intentionally, knowingly, or recklessly causes the death of another parent of the child, without legal justification.

Section 68. **Override clause.**

This bill overrides, replaces, takes precedent over, and otherwise governs in place of any conflicting or contradictory legislation passed during a general session of the Utah Legislature before enactment of this law.

FISCAL IMPACT ESTIMATE

The Governor's Office of Management and Budget estimates the law proposed by this initiative would result in total fiscal expenses of \$2,900,000 (\$1,800,000 ongoing and \$1,100,000 one-time).

Fee collections would cover about \$1,400,000 of ongoing costs. General state revenues would be required for remaining ongoing costs (\$400,000) and all one-time costs (\$1,100,000).

Under the proposed sales tax exemption, the state and local governments may initially forego \$1,600,000 in sales tax revenue. Foregone revenue could increase over time if consumption and taxable sales increase in the later years following implementation.

Consumer and firm behavior different than assumed would alter these estimates.

EXHIBIT B



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H.B. 3001

UTAH MEDICAL CANNABIS ACT

2018 THIRD SPECIAL SESSION

STATE OF UTAH

Chief Sponsor: Gregory H. Hughes

Senate Sponsor: Evan J. Vickers

LONG TITLE

General Description:

This bill provides for the cultivation, processing, medical recommendation, and patient use of medical cannabis.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ provides for licensing and regulation of a cannabis cultivation facility, a cannabis processing facility, an independent cannabis testing laboratory, and a medical cannabis pharmacy;
- ▶ provides for security and tracking of medical cannabis and a medical cannabis product from cultivation to use to ensure safety and chemical content;
- ▶ requires certain labeling and childproof packaging of medical cannabis and a medical cannabis product;
- ▶ requires the Department of Agriculture and Food, the Department of Health, the Department of Public Safety, and the Department of Technology Services to create an electronic verification system to facilitate recommendation, dispensing, and record-keeping for medical cannabis transactions;
- ▶ allows physicians, osteopathic physicians, advanced practice registered nurses, and physician assistants to recommend medical cannabis;
- ▶ allows an individual with a qualifying condition to obtain a medical cannabis patient card on the recommendation of a certain medical professional to gain access to medical cannabis;

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- ▶ allows a patient to designate a caregiver to assist with accessing medical cannabis;
- ▶ provides for a parent or legal guardian to obtain a medical cannabis guardian card for an eligible minor patient and for the minor patient to concurrently receive a provisional patient card;
- ▶ provides certain state employment discrimination protection for an individual who lawfully uses medical cannabis;
- ▶ limits the form and amount of medical cannabis available to a patient at one time;
- ▶ prohibits a minor from entering a medical cannabis pharmacy;
- ▶ requires the Department of Health to establish the state central fill medical cannabis pharmacy;
- ▶ provides for a process of state central fill shipment of medical cannabis and cannabis product to a local health department for patient retrieval;
- ▶ creates certain enterprise funds;
- ▶ imposes criminal penalties for improperly giving or selling medical cannabis;
- ▶ decriminalizes certain conduct for certain individuals before the medical cannabis card program and medical cannabis pharmacies are operational;
- ▶ creates protections from state prosecution for the lawful possession, use, and sale of medical cannabis;
- ▶ exempts medical cannabis and medical cannabis products from sales tax;
- ▶ prohibits a court from considering the lawful use of medical cannabis in a custody proceeding;
- ▶ repeals superfluous sections related to authorized use of cannabis or a cannabis product;
- ▶ provides a severability clause;
- ▶ re-enacts language that the voter initiative repealed by implication through use of outdated code; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

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58 None

59 **Other Special Clauses:**

60 This bill provides a special effective date.

61 This bill provides revisor instructions.

62 **Utah Code Sections Affected:**

63 AMENDS:

64 **4-41-102**, as last amended by Laws of Utah 2018, Chapters 227 and 452

65 **7-1-401**, as last amended by Laws of Utah 2018, Chapter 446

66 **10-9a-104**, as amended by Statewide Initiative -- Proposition 2, Nov. 6, 2018

67 **17-27a-104**, as amended by Statewide Initiative -- Proposition 2, Nov. 6, 2018

68 **26-61-202**, as amended by Statewide Initiative -- Proposition 2, Nov. 6, 2018 and last
69 amended by Laws of Utah 2018, Chapter 110

70 **26-65-102 (Effective 07/01/19)**, as enacted by Laws of Utah 2018, Chapter 452

71 **26-65-103 (Effective 07/01/19)**, as enacted by Laws of Utah 2018, Chapter 452

72 **30-3-10**, as amended by Statewide Initiative -- Proposition 2, Nov. 6, 2018

73 **34A-2-418**, as last amended by Laws of Utah 2016, Chapter 242

74 **41-6a-517 (Superseded 07/01/19)**, as last amended by Laws of Utah 2017, Chapter 446

75 **41-6a-517 (Effective 07/01/19)**, as last amended by Laws of Utah 2018, Chapter 452

76 **49-11-1401**, as last amended by Laws of Utah 2018, Chapter 61

77 **53-1-106.5**, as enacted by Statewide Initiative -- Proposition 2, Nov. 6, 2018

78 **58-17b-302**, as last amended by Laws of Utah 2014, Chapter 72

79 **58-17b-310**, as enacted by Laws of Utah 2004, Chapter 280

80 **58-17b-502**, as last amended by Laws of Utah 2018, Chapter 295

81 **58-31b-305**, as last amended by Laws of Utah 2014, Chapter 316

82 **58-31b-502**, as last amended by Laws of Utah 2016, Chapter 127

83 **58-37-3.6 (Superseded 07/01/19)**, as last amended by Laws of Utah 2018, Chapters
84 333 and 446

85 **58-37-3.6 (Effective 07/01/19)**, as last amended by Laws of Utah 2018, Chapters 333,

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446, and 452

58-37-3.7, as enacted by Statewide Initiative -- Proposition 2, Nov. 6, 2018**58-37-3.8**, as enacted by Statewide Initiative -- Proposition 2, Nov. 6, 2018**58-37-3.9**, as enacted by Statewide Initiative -- Proposition 2, Nov. 6, 2018**58-37f-203 (Effective 07/01/19)**, as last amended by Laws of Utah 2018, Chapters 123
and 452**58-67-304**, as last amended by Laws of Utah 2018, Chapters 282 and 318**58-67-502**, as last amended by Laws of Utah 2017, Chapter 299**58-68-304**, as last amended by Laws of Utah 2018, Chapter 318**58-68-502**, as last amended by Laws of Utah 2017, Chapter 299**58-70a-303**, as last amended by Laws of Utah 2001, Chapter 268**58-70a-503**, as last amended by Laws of Utah 2017, Chapter 309**58-85-102**, as last amended by Laws of Utah 2018, Chapter 333**58-85-104**, as last amended by Laws of Utah 2018, Chapter 333**58-85-105**, as last amended by Laws of Utah 2018, Chapter 333**62A-4a-202.1**, as amended by Statewide Initiative -- Proposition 2, Nov. 6, 2018**63I-1-226**, as amended by Statewide Initiative -- Proposition 2, Nov. 6, 2018 and last
amended by Laws of Utah 2018, Chapters 180, 281, 384, 430, and 468**63I-1-258**, as amended by Statewide Initiative -- Proposition 2, Nov. 6, 2018 and last
amended by Laws of Utah 2018, Chapter 399**67-19-33**, as last amended by Laws of Utah 2006, Chapter 139**78A-6-508 (Superseded 07/01/19)**, as last amended by Laws of Utah 2014, Chapter
409**78A-6-508 (Effective 07/01/19)**, as last amended by Laws of Utah 2018, Chapter 452

ENACTS:

4-41a-104, Utah Code Annotated 1953**4-41a-105**, Utah Code Annotated 1953**4-41a-106**, Utah Code Annotated 1953

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114 4-41a-405, Utah Code Annotated 1953
115 26-36d-101, Utah Code Annotated 1953
116 26-36d-102, Utah Code Annotated 1953
117 26-36d-103, Utah Code Annotated 1953
118 26-36d-201, Utah Code Annotated 1953
119 26-36d-202, Utah Code Annotated 1953
120 26-36d-203, Utah Code Annotated 1953
121 26-36d-204, Utah Code Annotated 1953
122 26-36d-205, Utah Code Annotated 1953
123 26-36d-206, Utah Code Annotated 1953
124 26-36d-207, Utah Code Annotated 1953
125 26-36d-208, Utah Code Annotated 1953
126 26-61a-108, Utah Code Annotated 1953
127 26-61a-110, Utah Code Annotated 1953
128 26-61a-112, Utah Code Annotated 1953
129 26-61a-113, Utah Code Annotated 1953
130 26-61a-114, Utah Code Annotated 1953
131 26-61a-205, Utah Code Annotated 1953
132 26-61a-403, Utah Code Annotated 1953
133 26-61a-503, Utah Code Annotated 1953
134 26-61a-601, Utah Code Annotated 1953
135 26-61a-602, Utah Code Annotated 1953
136 26-61a-603, Utah Code Annotated 1953
137 26-61a-604, Utah Code Annotated 1953
138 26-61a-605, Utah Code Annotated 1953
139 26-61a-606, Utah Code Annotated 1953
140 26-61a-607, Utah Code Annotated 1953
141 26-61a-608, Utah Code Annotated 1953

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142 **26-61a-609**, Utah Code Annotated 1953
 143 **26-61a-610**, Utah Code Annotated 1953
 144 **26-61a-611**, Utah Code Annotated 1953
 145 **26-61a-701**, Utah Code Annotated 1953
 146 **58-20b-101**, Utah Code Annotated 1953
 147 **58-20b-102**, Utah Code Annotated 1953
 148 **58-20b-201**, Utah Code Annotated 1953
 149 **58-20b-301**, Utah Code Annotated 1953
 150 **58-20b-302**, Utah Code Annotated 1953
 151 **58-20b-303**, Utah Code Annotated 1953

152 **58-20b-304**, Utah Code Annotated 1953
 153 **58-20b-305**, Utah Code Annotated 1953
 154 **58-20b-401**, Utah Code Annotated 1953
 155 **58-20b-501**, Utah Code Annotated 1953
 156 **59-12-104.10**, Utah Code Annotated 1953
 157 **62A-3-322**, Utah Code Annotated 1953

158 RENUMBERS AND AMENDS:

159 **4-41a-101**, (Renumbered from 4-41b-101, as enacted by Statewide Initiative --

160 Proposition 2, Nov. 6, 2018)

161 **4-41a-102**, (Renumbered from 4-41b-102, as enacted by Statewide Initiative --

162 Proposition 2, Nov. 6, 2018)

163 **4-41a-103**, (Renumbered from 4-41b-103, as enacted by Statewide Initiative --

164 Proposition 2, Nov. 6, 2018)

165 **4-41a-201**, (Renumbered from 4-41b-201, as enacted by Statewide Initiative --

166 Proposition 2, Nov. 6, 2018)

167 **4-41a-202**, (Renumbered from 4-41b-302, as enacted by Statewide Initiative --

168 Proposition 2, Nov. 6, 2018)

169 **4-41a-203**, (Renumbered from 4-41b-202, as enacted by Statewide Initiative --

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170 Proposition 2, Nov. 6, 2018)

171 **4-41a-204**, (Renumbered from 4-41b-203, as enacted by Statewide Initiative --

172 Proposition 2, Nov. 6, 2018)

173 **4-41a-205**, (Renumbered from 4-41b-204, as enacted by Statewide Initiative --

174 Proposition 2, Nov. 6, 2018)

175 **4-41a-301**, (Renumbered from 4-41b-301, as enacted by Statewide Initiative --

176 Proposition 2, Nov. 6, 2018)

177 **4-41a-302**, (Renumbered from 4-41b-303, as enacted by Statewide Initiative --

178 Proposition 2, Nov. 6, 2018)

179 **4-41a-401**, (Renumbered from 4-41b-401, as enacted by Statewide Initiative --

180 Proposition 2, Nov. 6, 2018)

181 **4-41a-402**, (Renumbered from 4-41b-402, as enacted by Statewide Initiative --

182 Proposition 2, Nov. 6, 2018)

183 **4-41a-403**, (Renumbered from 4-41b-403, as enacted by Statewide Initiative --

184 Proposition 2, Nov. 6, 2018)

185 **4-41a-404**, (Renumbered from 4-41b-404, as enacted by Statewide Initiative --

186 Proposition 2, Nov. 6, 2018)

187 **4-41a-406**, (Renumbered from 4-41b-405, as enacted by Statewide Initiative --

188 Proposition 2, Nov. 6, 2018)

189 **4-41a-501**, (Renumbered from 4-41b-501, as enacted by Statewide Initiative --

190 Proposition 2, Nov. 6, 2018)

191 **4-41a-502**, (Renumbered from 4-41b-502, as enacted by Statewide Initiative --

192 Proposition 2, Nov. 6, 2018)

193 **4-41a-601**, (Renumbered from 4-41b-601, as enacted by Statewide Initiative --

194 Proposition 2, Nov. 6, 2018)

195 **4-41a-602**, (Renumbered from 4-41b-602, as enacted by Statewide Initiative --

196 Proposition 2, Nov. 6, 2018)

197 **4-41a-603**, (Renumbered from 4-41b-603, as enacted by Statewide Initiative --

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198 Proposition 2, Nov. 6, 2018)

199 **4-41a-701**, (Renumbered from 4-41b-701, as enacted by Statewide Initiative --

200 Proposition 2, Nov. 6, 2018)

201 **4-41a-702**, (Renumbered from 4-41b-702, as enacted by Statewide Initiative --

202 Proposition 2, Nov. 6, 2018)

203 **4-41a-801**, (Renumbered from 4-41b-801, as enacted by Statewide Initiative --

204 Proposition 2, Nov. 6, 2018)

205 **4-41a-802**, (Renumbered from 4-41b-802, as enacted by Statewide Initiative --

206 Proposition 2, Nov. 6, 2018)

207 **26-61a-101**, (Renumbered from 26-60b-101, as enacted by Statewide Initiative --

208 Proposition 2, Nov. 6, 2018)

209 **26-61a-102**, (Renumbered from 26-60b-102, as enacted by Statewide Initiative --

210 Proposition 2, Nov. 6, 2018)

211 **26-61a-103**, (Renumbered from 26-60b-103, as enacted by Statewide Initiative --

212 Proposition 2, Nov. 6, 2018)

213 **26-61a-104**, (Renumbered from 26-60b-105, as enacted by Statewide Initiative --

214 Proposition 2, Nov. 6, 2018)

215 **26-61a-105**, (Renumbered from 26-60b-106, as enacted by Statewide Initiative --

216 Proposition 2, Nov. 6, 2018)

217 **26-61a-106**, (Renumbered from 26-60b-107, as enacted by Statewide Initiative --

218 Proposition 2, Nov. 6, 2018)

219 **26-61a-107**, (Renumbered from 26-60b-108, as enacted by Statewide Initiative --

220 Proposition 2, Nov. 6, 2018)

221 **26-61a-109**, (Renumbered from 26-60b-109, as enacted by Statewide Initiative --

222 Proposition 2, Nov. 6, 2018)

223 **26-61a-111**, (Renumbered from 26-60b-110, as enacted by Statewide Initiative --

224 Proposition 2, Nov. 6, 2018)

225 **26-61a-201**, (Renumbered from 26-60b-201, as enacted by Statewide Initiative --

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226 Proposition 2, Nov. 6, 2018)

227 **26-61a-202**, (Renumbered from 26-60b-202, as enacted by Statewide Initiative --

228 Proposition 2, Nov. 6, 2018)

229 **26-61a-203**, (Renumbered from 26-60b-203, as enacted by Statewide Initiative --

230 Proposition 2, Nov. 6, 2018)

231 **26-61a-204**, (Renumbered from 26-60b-204, as enacted by Statewide Initiative --

232 Proposition 2, Nov. 6, 2018)

233 **26-61a-301**, (Renumbered from 26-60b-301, as enacted by Statewide Initiative --

234 Proposition 2, Nov. 6, 2018)

235 **26-61a-302**, (Renumbered from 26-60b-402, as enacted by Statewide Initiative --

236 Proposition 2, Nov. 6, 2018)

237 **26-61a-303**, (Renumbered from 26-60b-302, as enacted by Statewide Initiative --

238 Proposition 2, Nov. 6, 2018)

239 **26-61a-304**, (Renumbered from 26-60b-303, as enacted by Statewide Initiative --

240 Proposition 2, Nov. 6, 2018)

241 **26-61a-305**, (Renumbered from 26-60b-304, as enacted by Statewide Initiative --

242 Proposition 2, Nov. 6, 2018)

243 **26-61a-401**, (Renumbered from 26-60b-401, as enacted by Statewide Initiative --

244 Proposition 2, Nov. 6, 2018)

245 **26-61a-402**, (Renumbered from 26-60b-403, as enacted by Statewide Initiative --

246 Proposition 2, Nov. 6, 2018)

247 **26-61a-501**, (Renumbered from 26-60b-501, as enacted by Statewide Initiative --

248 Proposition 2, Nov. 6, 2018)

249 **26-61a-502**, (Renumbered from 26-60b-502, as enacted by Statewide Initiative --

250 Proposition 2, Nov. 6, 2018)

251 **26-61a-504**, (Renumbered from 26-60b-503, as enacted by Statewide Initiative --

252 Proposition 2, Nov. 6, 2018)

253 **26-61a-505**, (Renumbered from 26-60b-504, as enacted by Statewide Initiative --

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254 Proposition 2, Nov. 6, 2018)

255 **26-61a-506**, (Renumbered from 26-60b-505, as enacted by Statewide Initiative --
 256 Proposition 2, Nov. 6, 2018)

257 **26-61a-507**, (Renumbered from 26-60b-506, as enacted by Statewide Initiative --
 258 Proposition 2, Nov. 6, 2018)

259 **26-61a-702**, (Renumbered from 26-60b-601, as enacted by Statewide Initiative --
 260 Proposition 2, Nov. 6, 2018)

261 **26-61a-703**, (Renumbered from 26-60b-602, as enacted by Statewide Initiative --
 262 Proposition 2, Nov. 6, 2018)

263 REPEALS:

264 **4-41-201**, as enacted by Laws of Utah 2018, Chapter 446

265 **4-41-202**, as enacted by Laws of Utah 2018, Chapter 446

266 **4-41-203**, as enacted by Laws of Utah 2018, Chapter 446

267 **4-41-301**, as enacted by Laws of Utah 2018, Chapter 446

268 **4-41-302**, as enacted by Laws of Utah 2018, Chapter 446

269 **4-41-303**, as enacted by Laws of Utah 2018, Chapter 446

270 **4-41-304**, as enacted by Laws of Utah 2018, Chapter 446

271 **4-41b-104**, as enacted by Statewide Initiative -- Proposition 2, Nov. 6, 2018

272 **4-43-101 (Effective 07/01/19)**, as enacted by Laws of Utah 2018, Chapter 452

273 **4-43-102 (Effective 07/01/19)**, as enacted by Laws of Utah 2018, Chapter 452

274 **4-43-201 (Effective 07/01/19)**, as enacted by Laws of Utah 2018, Chapter 452

275 **4-43-202 (Effective 07/01/19)**, as enacted by Laws of Utah 2018, Chapter 452

276 **4-43-203 (Effective 07/01/19)**, as enacted by Laws of Utah 2018, Chapter 452

277 **4-43-301 (Effective 07/01/19)**, as enacted by Laws of Utah 2018, Chapter 452

278 **4-43-401 (Effective 07/01/19)**, as enacted by Laws of Utah 2018, Chapter 452

279 **4-43-402 (Effective 07/01/19)**, as enacted by Laws of Utah 2018, Chapter 452

280 **4-43-501 (Effective 07/01/19)**, as enacted by Laws of Utah 2018, Chapter 452

281 **4-43-502 (Effective 07/01/19)**, as enacted by Laws of Utah 2018, Chapter 452

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282 **4-43-503 (Effective 07/01/19)**, as enacted by Laws of Utah 2018, Chapter 452

283 **4-43-601 (Effective 07/01/19)**, as enacted by Laws of Utah 2018, Chapter 452

284 **4-43-602 (Effective 07/01/19)**, as enacted by Laws of Utah 2018, Chapter 452

285 **4-43-701 (Effective 07/01/19)**, as enacted by Laws of Utah 2018, Chapter 452

286 **4-43-702 (Effective 07/01/19)**, as enacted by Laws of Utah 2018, Chapter 452

287 **4-43-703 (Effective 07/01/19)**, as enacted by Laws of Utah 2018, Chapter 452

288 **4-43-801 (Effective 07/01/19)**, as enacted by Laws of Utah 2018, Chapter 452

289 **26-60b-104**, as enacted by Statewide Initiative -- Proposition 2, Nov. 6, 2018

290 **58-67-808 (Effective 07/01/19)**, as enacted by Laws of Utah 2018, Chapter 452

291 **58-68-808 (Effective 07/01/19)**, as enacted by Laws of Utah 2018, Chapter 452

292 **58-85-103.5**, as enacted by Laws of Utah 2018, Chapter 333

293 **58-88-101 (Effective 07/01/19)**, as enacted by Laws of Utah 2018, Chapter 452

294 **58-88-102 (Effective 07/01/19)**, as enacted by Laws of Utah 2018, Chapter 452

295 **58-88-103 (Effective 07/01/19)**, as enacted by Laws of Utah 2018, Chapter 452

296 **58-88-104 (Effective 07/01/19)**, as enacted by Laws of Utah 2018, Chapter 452

297 **59-12-104.7 (Repealed 01/01/19)**, as repealed by Laws of Utah 2018, Second Special

298 Session, Chapter 6

299 **59-12-104.9 (Effective 07/01/19)**, as enacted by Laws of Utah 2018, Chapter 452

300 **59-29-101 (Effective 07/01/19)**, as enacted by Laws of Utah 2018, Chapter 452

301 **59-29-102 (Effective 07/01/19)**, as enacted by Laws of Utah 2018, Chapter 452

302 **59-29-103 (Effective 07/01/19)**, as enacted by Laws of Utah 2018, Chapter 452

303 **59-29-104 (Effective 07/01/19)**, as enacted by Laws of Utah 2018, Chapter 452

304 **59-29-105 (Effective 07/01/19)**, as enacted by Laws of Utah 2018, Chapter 452

305 **59-29-106 (Effective 07/01/19)**, as enacted by Laws of Utah 2018, Chapter 452

306 **59-29-107 (Effective 07/01/19)**, as enacted by Laws of Utah 2018, Chapter 452

307 **59-29-108 (Effective 07/01/19)**, as enacted by Laws of Utah 2018, Chapter 452

308 **Utah Code Sections Affected by Revisor Instructions:**

309 **4-41a-106**, Utah Code Annotated 1953

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310 **4-41a-201**, Utah Code Annotated 1953
 311 **4-41a-301**, (Renumbered from 4-41b-301, as enacted by Statewide Initiative --
 312 Proposition 2, Nov. 6, 2018)
 313 **4-41a-401**, (Renumbered from 4-41b-401, as enacted by Statewide Initiative --
 314 Proposition 2, Nov. 6, 2018)
 315 **26-61a-114**, Utah Code Annotated 1953
 316 **26-61a-202**, (Renumbered from 26-60b-202, as enacted by Statewide Initiative --
 317 Proposition 2, Nov. 6, 2018)
 318 **26-61a-301**, (Renumbered from 26-60b-301, as enacted by Statewide Initiative --
 319 Proposition 2, Nov. 6, 2018)
 320 **26-61a-401**, (Renumbered from 26-60b-401, as enacted by Statewide Initiative --
 321 Proposition 2, Nov. 6, 2018)
 322 **26-61a-602**, Utah Code Annotated 1953
 323 **26-61a-606**, Utah Code Annotated 1953

324

325 *Be it enacted by the Legislature of the state of Utah:*326 Section 1. Section **4-41-102** is amended to read:327 **4-41-102. Definitions.**328 [~~For purposes of~~] As used in this chapter:

329 (1) "Agricultural pilot program" means a program to study the growth, cultivation, or
 330 marketing of industrial hemp.

331 (2) "Cannabidiol product" means a chemical compound extracted from a hemp product
 332 that:

333 (a) is processed into a medicinal dosage form; and

334 (b) contains less than 0.3% tetrahydrocannabinol by dry weight [~~before processing and~~
 335 ~~no more than a 10:1 ratio of cannabidiol to tetrahydrocannabinol after processing~~].

336 (3) "Industrial hemp" means any part of a cannabis plant, whether growing or not, with
 337 a concentration of less than 0.3% tetrahydrocannabinol by dry weight.

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(4) "Industrial hemp certificate" means a certificate issued by the department to a higher education institution to grow or cultivate industrial hemp under Subsection 4-41-103(1).

(5) "Industrial hemp license" means a license issued by the department to a person for the purpose of participating in a research pilot program.

(6) "Industrial hemp product" means a product derived from, or made by, processing industrial hemp plants or industrial hemp parts.

(7) "Licensee" means an individual or business entity possessing a license issued by the department under this chapter to grow, cultivate, process, or market industrial hemp or an industrial hemp product.

(8) "Medicinal dosage form" means ~~[the same as that term is defined in Section 26-65-102.];~~

(a) a tablet;

(b) a capsule;

(c) a concentrated oil;

(d) a sublingual preparation;

(e) a topical preparation;

(f) a transdermal preparation;

(g) a gelatinous cube, gelatinous rectangular cuboid, or lozenge in a cube or rectangular cuboid shape; or

(h) other preparations that the department approves.

(9) "Person" means:

(a) an individual, partnership, association, firm, trust, limited liability company, or corporation; and

(b) an agent or employee of an individual, partnership, association, firm, trust, limited liability company, or corporation.

(10) "Research pilot program" means a program conducted by the department in collaboration with at least one licensee to study methods of cultivating, processing, or marketing industrial hemp.

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Section 2. Section ~~4-41a-101~~, which is renumbered from Section 4-41b-101 is renumbered and amended to read:

CHAPTER 41a. CANNABIS PRODUCTION ESTABLISHMENTS

Part 1. General Provisions.

~~[4-41b-101].~~ **4-41a-101. Title.**

~~[(1)]~~ This chapter is known as "Cannabis Production Establishments."

Section 3. Section ~~4-41a-102~~, which is renumbered from Section 4-41b-102 is renumbered and amended to read:

~~[4-41b-102].~~ **4-41a-102. Definitions.**

As used in this chapter:

(1) "Cannabis" means the same as that term is defined in Section ~~[58-37-3.9]~~ 26-61a-102.

(2) "Cannabis cultivation facility" means a person that:

- (a) possesses cannabis;
- (b) grows or intends to grow cannabis; and
- (c) sells or intends to sell cannabis to a cannabis [production establishments] cultivation facility or to a cannabis [dispensaries] processing facility.

(3) "Cannabis cultivation facility agent" means an individual who:

- (a) is an [owner, officer, director, board member,] employee[, or volunteer] of a cannabis cultivation facility[:]; and
- (b) holds a valid cannabis production establishment agent registration card.

~~[(4)]~~ ~~"Cannabis dispensary" means the same as that term is defined in Section 26-60b-102.]~~

~~[(5)]~~ ~~"Cannabis dispensary agent" means the same as that term is defined in Section 26-60b-102.]~~

~~[(6)]~~ (4) "Cannabis processing facility" means a person that:

- (a) acquires or intends to acquire cannabis from a cannabis production establishment or a holder of an industrial hemp processor license under Title 4, Chapter 41, Hemp and

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394 Cannabidiol Act;

395 (b) possesses cannabis with the intent to manufacture a cannabis product;

396 (c) manufactures or intends to manufacture a cannabis product from unprocessed
397 cannabis or a cannabis extract; and

398 (d) sells or intends to sell a cannabis product to a medical cannabis [~~dispensary~~]
399 pharmacy or the state central fill medical cannabis pharmacy.

400 [~~(7)~~] (5) "Cannabis processing facility agent" means an individual who:

401 (a) is an [~~owner, officer, director, board member,~~] employee[~~, or volunteer~~] of a
402 cannabis processing facility[~~;~~]; and

403 (b) holds a valid cannabis production establishment agent registration card.

404 [~~(8)~~] (6) "Cannabis product" means the same as that term is defined in Section
405 [~~58-37-3-9~~] 26-61a-102.

406 [~~(9)~~] (7) "Cannabis production establishment" means a cannabis cultivation facility, a
407 cannabis processing facility, or an independent cannabis testing laboratory.

408 [~~(10)~~] (8) "Cannabis production establishment agent" means a cannabis cultivation
409 facility agent, a cannabis processing facility agent, or an independent cannabis testing
410 laboratory agent.

411 [~~(11)~~] (9) "Cannabis production establishment agent registration card" means a
412 registration card[~~, issued by~~] that the department[~~;~~] issues that:

413 (a) authorizes an individual to act as a cannabis production establishment agent; and

414 (b) designates the type of cannabis production establishment for which an individual is
415 authorized to act as an agent.

416 [~~(12)~~] (10) "Community location" means a public or private school, a church, a public
417 library, a public playground, or a public park.

418 (11) "Department" means the Department of Agriculture and Food.

419 (12) "Family member" means a parent, step-parent, spouse, child, sibling, step-sibling,
420 uncle, aunt, nephew, niece, first cousin, mother-in-law, father-in-law, brother-in-law,
421 sister-in-law, son-in-law, daughter-in-law, grandparent, or grandchild.

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(13) "Independent cannabis testing laboratory" means a person that:

(a) conducts a chemical or other analysis of cannabis or a cannabis product; or

(b) acquires, possesses, and transports cannabis or a cannabis product with the intent to conduct a chemical or other analysis of the cannabis or cannabis product.

(14) "Independent cannabis testing laboratory agent" means an individual who:

(a) is an ~~[owner, officer, director, board member,]~~ employee~~[-, or volunteer]~~ of an independent cannabis testing laboratory~~[-]; and~~

(b) holds a valid cannabis production establishment agent registration card.

(15) "Inventory control system" means ~~[the]~~ a system described in Section ~~[4-41b-103]~~

4-41a-103.

(16) "Medical cannabis" means the same as that term is defined in Section 26-61a-102.

~~[(16)]~~ (17) "Medical cannabis card" means the same as that term is defined in Section ~~[26-60b-102]~~ 26-61a-102.

(18) "Medical cannabis pharmacy" means the same as that term is defined in Section 26-61a-102.

(19) "Medical cannabis pharmacy agent" means the same as that term is defined in Section 26-61a-102.

~~[(17) "Medical Cannabis Restricted Account" means the account created in Section 26-60b-109;]~~

(20) "Medical cannabis treatment" means the same as that term is defined in Section 26-61a-102.

(21) "Medicinal dosage form" means the same as that term is defined in Section 26-61a-102.

~~[(18) "Physician"]~~ (22) "Qualified medical provider" means the same as that term is defined in Section ~~[26-60b-107]~~ 26-61a-102.

(23) "Qualified Production Enterprise Fund" means the fund created in Section 4-41a-104.

(24) "State central fill agent" means the same as that term is defined in Section

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26-61a-102.

(25) "State central fill medical cannabis pharmacy" means the same as that term is defined in Section 26-61a-102.

(26) "State central fill shipment" means the same as that term is defined in Section 26-61a-102.

~~[(19)]~~ (27) "State electronic verification system" means the system described in Section ~~[26-60b-103]~~ 26-61a-103.

(28) "Tetrahydrocannabinol" means a substance derived from cannabis or a synthetic equivalent as described in Subsection 58-37-4(2)(a)(iii)(AA).

(29) "Total composite tetrahydrocannabinol" means delta-9-tetrahydrocannabinol and tetrahydrocannabinolic acid.

Section 4. Section **4-41a-103**, which is renumbered from Section 4-41b-103 is renumbered and amended to read:

~~[4-41b-103].~~ **4-41a-103. Inventory control system.**

(1) ~~[A]~~ Each cannabis production establishment ~~[and a]~~, each medical cannabis ~~[dispensary]~~ pharmacy, and the state central fill medical cannabis pharmacy shall maintain an inventory control system that meets the requirements of this section.

(2) ~~[An]~~ A cannabis production establishment, a medical cannabis pharmacy, and the state central fill medical cannabis pharmacy shall ensure that the inventory control system ~~[shall track]~~ maintained by the establishment or pharmacy:

(a) tracks cannabis using a unique identifier, in real time, from the point that a cannabis plant is eight inches tall[;] and has a root ball[;] until the cannabis is disposed of or sold, in the form of unprocessed cannabis or a cannabis product, to an individual with a medical cannabis card[; ~~(3) An inventory control system shall store~~];

(b) maintains in real time a record of the amount of cannabis and cannabis products in the ~~[cannabis production establishment's or cannabis dispensary's]~~ possession[; ~~(4) An inventory control system shall include~~] of the establishment or pharmacy;

(c) includes a video recording system that:

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478 ~~[(a)]~~ (i) tracks all handling and processing of cannabis or a cannabis product in the
 479 ~~[cannabis production]~~ establishment or ~~[cannabis dispensary]~~ pharmacy;

480 ~~[(b)]~~ (ii) is tamper proof; ~~[and (c) is capable of storing]~~

481 (iii) stores a video record for at least 45 days ~~[-(5) An inventory control system~~
 482 ~~installed in a cannabis production establishment or cannabis dispensary shall maintain]; and~~

483 (d) preserves compatibility with the state electronic verification system described in
 484 Section 26-61a-103.

485 ~~[(6)]~~ (3) A cannabis production establishment ~~[or], a medical cannabis [dispensary]~~
 486 pharmacy, and the state central fill medical cannabis pharmacy shall allow the department or
 487 the Department of Health access to the cannabis production establishment's [or], medical
 488 cannabis [dispensary's] pharmacy's, or state central fill medical cannabis pharmacy's inventory
 489 control system [during an inspection] at any time.

490 ~~[(7)]~~ (4) The department may establish compatibility standards for an inventory control
 491 system by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
 492 Rulemaking Act.

493 (5) (a) The department shall make rules in accordance with Title 63G, Chapter 3, Utah
 494 Administrative Rulemaking Act, establishing requirements for aggregate or batch records
 495 regarding the planting and propagation of cannabis before being tracked in an inventory control
 496 system described in this section.

497 (b) The department shall ensure that the rules described in Subsection (5)(a) address
 498 record-keeping for the amount of planted seed, number of cuttings taken, date and time of
 499 cutting and planting, number of plants established, and number of plants culled or dead.

500 Section 5. Section **4-41a-104** is enacted to read:

501 **4-41a-104. Qualified Production Enterprise Fund -- Creation -- Revenue**
 502 **neutrality.**

503 (1) There is created an enterprise fund known as the "Qualified Production Enterprise
 504 Fund."

505 (2) The fund created in this section is funded from:

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(a) money the department deposits into the fund under this chapter;

(b) appropriations the Legislature makes to the fund; and

(c) the interest described in Subsection (3).

(3) Interest earned on the Qualified Production Enterprise Fund shall be deposited into the fund.

(4) The department may only use money in the fund to fund the department's implementation of this chapter.

(5) The department shall set fees authorized under this chapter in amounts that the department anticipates are necessary, in total, to cover the department's cost to implement this chapter.

Section 6. Section **4-41a-105** is enacted to read:

4-41a-105. Agreement with a tribe.

(1) As used in this section, "tribe" means a federally recognized Indian tribe or Indian band.

(2) (a) In accordance with this section, the governor may enter into an agreement with a tribe to allow for the operation of a cannabis production establishment on tribal land located within the state.

(b) An agreement described in Subsection (2)(a) may not exempt any person from the requirements of this chapter.

(c) The governor shall ensure that an agreement described in Subsection (2)(a):

(i) is in writing;

(ii) is signed by:

(A) the governor; and

(B) the governing body of the tribe that the tribe designates and has the authority to bind the tribe to the terms of the agreement;

(iii) states the effective date of the agreement;

(iv) provides that the governor shall renegotiate the agreement if the agreement is or becomes inconsistent with a state statute; and

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(v) includes any accommodation that the tribe makes:

(A) to which the tribe agrees; and

(B) that is reasonably related to the agreement.

(d) Before executing an agreement under this Subsection (2), the governor shall consult with the department.

(e) At least 30 days before the execution of an agreement described in this Subsection (2), the governor or the governor's designee shall provide a copy of the agreement in the form in which the agreement will be executed to:

(i) the chairs of the Native American Legislative Liaison Committee; and

(ii) the Office of Legislative Research and General Counsel.

Section 7. Section **4-41a-106** is enacted to read:

4-41a-106. Severability clause.

(1) If a final decision of a court of competent jurisdiction holds invalid any provision of this title or this bill or the application of any provision of this title or this bill to any person or circumstance, the remaining provisions of this title and this bill remain effective without the invalidated provision or application.

(2) The provisions of this title and this bill are severable.

Section 8. Section **4-41a-201**, which is renumbered from Section 4-41b-201 is renumbered and amended to read:

Part 2. Cannabis Production Establishment

~~[4-41b-201].~~ **4-41a-201. Cannabis production establishment -- License.**

(1) A person may not operate a cannabis production establishment without a license ~~[issued by]~~ that the department issues under this chapter.

(2) (a) Subject to Subsections (6) ~~[and]~~, (7), and (8), and to Section ~~[4-41b-204]~~ 4-41a-205, the department shall, ~~[within 90 days after receiving a complete application]~~ in accordance with Title 63G, Chapter 6a, Utah Procurement Code, issue a license to operate a cannabis production establishment to ~~[a person who]~~ an applicant who is eligible for a license under this section.

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(b) An applicant is eligible for a license under this section if the applicant submits to the department:

~~[(a)]~~ (i) a proposed name and address, located in a zone described in Subsection 4-41a-406(1)(a) or (b), where the [person] applicant will operate the cannabis production establishment that is not within [600] 1,000 feet of a community location or within [300] 600 feet of an area zoned [exclusively] primarily for residential use, as measured from the nearest entrance to the cannabis production establishment by following the shortest route of ordinary pedestrian travel to the property boundary of the community location or residential area, unless the relevant county or municipality recommends in writing that the department waive the community location proximity limit;

~~[(b)]~~ (ii) the name and address of any individual who has:
(A) a financial or voting interest of [two percent] 2% or greater in the proposed cannabis production establishment; or [who has]

(B) the power to direct or cause the management or control of a proposed [medical] cannabis production establishment;

~~[(c)]~~ (iii) an operating plan that:
(A) complies with Section [4-41b-203 and that] 4-41a-204;
(B) includes operating procedures [to] that comply with [the requirements of] this chapter and [with] any [laws adopted by] law the municipality or county [that are] in which the person is located adopts that is consistent with Section [4-41b-405] 4-41a-406; and

(C) the department approves;

~~[(d)]~~ (iv) [financial statements demonstrating that the person possesses a minimum of] evidence that the applicant has obtained and maintains a performance bond that a surety authorized to transact surety business in the state issues in an amount of at least:

(A) [\$500,000 in liquid assets available] \$250,000 for each cannabis cultivation facility for which the [person] applicant applies; or [a minimum of \$100,000]

(B) [in liquid assets available] \$50,000 for each cannabis processing facility or independent cannabis testing laboratory for which the [person] applicant applies;

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590 ~~[(e) if the municipality or county where the proposed cannabis production~~
 591 ~~establishment would be located has enacted zoning restrictions, a sworn statement certifying~~
 592 ~~that the proposed cannabis production establishment is in compliance with the restrictions;]~~

593 ~~[(f)]~~ (v) if the municipality or county where the proposed cannabis production
 594 establishment would be located requires a local land use permit ~~[or license]~~, a copy of the
 595 applicant's approved application for the local land use permit ~~[or license]~~; and

596 ~~[(g)]~~ (vi) an application fee ~~[established by]~~ in an amount that, subject to Subsection
 597 4-41a-104(5), the department sets in accordance with Section 63J-1-504 ~~[, that is necessary to~~
 598 ~~cover the department's cost to implement this chapter].~~

599 (3) If the department ~~[determines that a cannabis production establishment is eligible]~~
 600 approves an application for a license under this section~~[-];~~:

601 (a) the applicant shall pay the department ~~[shall charge the cannabis establishment]~~ an
 602 initial license fee in an amount ~~[determined by]~~ that, subject to Subsection 4-41a-104(5), the
 603 department sets in accordance with Section 63J-1-504~~[-]; and~~

604 (b) the department shall notify the Department of Public Safety of the license approval
 605 and the names of each individual described in Subsection (2)(b)(ii).

606 (4) (a) Except as provided in Subsection ~~[(5)]~~ (4)(b), the department shall require a
 607 separate license for each type of cannabis production establishment and each location of a
 608 cannabis production establishment.

609 ~~[(5)]~~ (b) The department may issue a cannabis cultivation facility license and a
 610 cannabis processing facility license to a person to operate at the same physical location or at
 611 separate physical locations.

612 (5) If the department receives more than one application for a cannabis production
 613 establishment within the same city or town, the department shall consult with the local land use
 614 authority before approving any of the applications pertaining to that city or town.

615 (6) The department may not issue a license to operate an independent cannabis testing
 616 laboratory to a person who:

617 (a) ~~[that]~~ holds a license or has an ownership interest in a medical cannabis

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618 ~~[dispensary]~~ pharmacy, a cannabis processing facility, or a cannabis cultivation facility ~~[in the~~
 619 ~~state];~~

620 (b) ~~[that]~~ has an owner, officer, director, or employee whose ~~[immediate]~~ family
 621 member holds a license or has an ownership interest in a medical cannabis ~~[dispensary]~~
 622 pharmacy, a cannabis processing facility, or a cannabis cultivation facility; or

623 (c) ~~[who]~~ proposes to operate the independent cannabis testing laboratory at the same
 624 physical location as a medical cannabis ~~[dispensary]~~ pharmacy, a cannabis processing facility,
 625 or a cannabis cultivation facility.

626 (7) The department may not issue a license to operate a cannabis production
 627 establishment to an applicant if any individual ~~[who has a financial or voting interest of two~~
 628 ~~percent or greater in the applicant or who has the power to direct or cause the management or~~
 629 ~~control of the applicant]~~ described in Subsection (2)(b)(ii):

630 (a) has been convicted ~~[of an offense that is a felony]~~ under ~~[either]~~ state or federal
 631 law~~;~~ or of:

632 (i) a felony; or

633 (ii) after the effective date of this bill, a misdemeanor for drug distribution; or

634 (b) is ~~[less]~~ younger than 21 years ~~[of age]~~ old.

635 (8) If an applicant for a cannabis production establishment license under this section
 636 holds a license under Title 4, Chapter 41, Hemp and Cannabidiol Act, or Title 26, Chapter 61a,
 637 Utah Medical Cannabis Act, the department:

638 (a) shall consult with the Department of Health regarding the applicant if the license
 639 the applicant holds is a license under Title 26, Chapter 61a, Utah Medical Cannabis Act; and

640 (b) may not give preference to the applicant based on the applicant's status as a holder
 641 of a license described in this Subsection (8).

642 ~~[(8)]~~ (9) The department may revoke a license under this part:

643 (a) if the cannabis production establishment ~~[is]~~ does not ~~[operating]~~ begin cannabis
 644 production operations within one year ~~[of the issuance of]~~ after the day on which the
 645 department issues the initial license~~[-];~~

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(b) after the cannabis production establishment makes the same violation of this chapter three times; or

(c) if any individual described in Subsection (2)(b) is convicted, while the license is active, under state or federal law of:

(i) a felony; or

(ii) after the effective date of this bill, a misdemeanor for drug distribution.

~~[(9)]~~ (10) The department shall deposit the proceeds of a fee [imposed by] that the department imposes under this section [in] into the [Medical Cannabis Restricted Account] Qualified Production Enterprise Fund.

~~[(10)]~~ (11) The department shall begin accepting applications under this part [no later than] on or before January 1, 2020.

(12) The department's authority to issue a license under this section is plenary and is not subject to review.

Section 9. Section **4-41a-202**, which is renumbered from Section 4-41b-302 is renumbered and amended to read:

~~[4-41b-302].~~ **4-41a-202. Cannabis production establishment owners and directors -- Criminal background checks.**

(1) Each applicant for a license as a cannabis production establishment shall submit to the department, at the time of application, from each individual who has a financial or voting interest of [two percent] 2% or greater in the applicant or who has the power to direct or cause the management or control of the applicant:

(a) a fingerprint card in a form acceptable to the [department, and] Department of Public Safety;

(b) a signed waiver in accordance with Subsection 53-10-108(4) acknowledging the registration of the individual's fingerprints in the Federal Bureau of Investigation Next Generation Identification System's Rap Back Service; and

~~[(b)]~~ (c) consent to a fingerprint background check by:

(i) the Utah Bureau of Criminal Identification; and

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(ii) the Federal Bureau of Investigation.

~~[(2) The department shall request that the Department of Public Safety complete a Federal Bureau of Investigation criminal background check for the individual described in Subsection (1).]~~

(2) The Bureau of Criminal Identification shall:

(a) check the fingerprints the applicant submits under Subsection (1) against the applicable state, regional, and national criminal records databases, including the Federal Bureau of Investigation Next Generation Identification System;

(b) report the results of the background check to the department;

(c) maintain a separate file of fingerprints that applicants submit under Subsection (1) for search by future submissions to the local and regional criminal records databases, including latent prints;

(d) request that the fingerprints be retained in the Federal Bureau of Investigation Next Generation Identification System's Rap Back Service for search by future submissions to national criminal records databases, including the Next Generation Identification System and latent prints; and

(e) establish a privacy risk mitigation strategy to ensure that the department only receives notifications for an individual with whom the department maintains an authorizing relationship.

(3) The department shall:

(a) assess an individual who submits fingerprints under Subsection (1) a fee in an amount that the department sets in accordance with Section 63J-1-504 for the services that the Bureau of Criminal Identification or another authorized agency provides under this section; and

(b) remit the fee described in Subsection (3)(a) to the Bureau of Criminal Identification.

Section 10. Section ~~4-41a-203~~, which is renumbered from Section 4-41b-202 is renumbered and amended to read:

~~[4-41b-202].~~ **4-41a-203. Renewal.**

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702 ~~[(1)]~~ The department shall renew a ~~[person's]~~ license issued under Section ~~[4-41b-201]~~
 703 4-41a-201 every ~~[two years,]~~ year if, at the time of renewal:

704 ~~[(a)]~~ (1) the ~~[person]~~ licensee meets the requirements of Section ~~[4-41b-201]~~
 705 4-41a-201; ~~[and]~~

706 ~~[(b)]~~ (2) the ~~[person]~~ licensee pays the department a license renewal fee in an amount
 707 ~~[determined by]~~ that, subject to Subsection 4-41a-104(5), the department sets in accordance
 708 with Section 63J-1-504[-]; and

709 (3) if the cannabis production establishment changes the operating plan described in
 710 Section 4-41a-204 that the department approved under Subsection 4-41a-201(2)(b)(iii), the
 711 department approves the new operating plan.

712 Section 11. Section **4-41a-204**, which is renumbered from Section 4-41b-203 is
 713 renumbered and amended to read:

714 ~~[4-41b-203].~~ **4-41a-204. Operating plan.**

715 (1) A person applying for a cannabis production ~~[facility]~~ establishment license or
 716 license renewal shall submit to the department for the department's review a proposed
 717 ~~[operation]~~ operating plan that complies with this section and that includes:

718 (a) a description of the physical characteristics of the proposed facility, including a
 719 floor plan and an architectural elevation;

720 (b) a description of the credentials and experience of:

721 (i) each officer, director, ~~[or]~~ and owner of the proposed cannabis production
 722 establishment; and

723 (ii) any highly skilled or experienced prospective employee;

724 (c) the cannabis production establishment's employee training standards;

725 (d) a security plan;

726 (e) a description of the cannabis production establishment's inventory control system,
 727 including a ~~[plan to make]~~ description of how the inventory control system is compatible with
 728 the state electronic verification system described in Section 26-61a-103;

729 (f) storage protocols, both short- and long-term, to ensure that cannabis is stored in a

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730 manner that is sanitary and preserves the integrity of the cannabis;

731 ~~[(f)]~~ (g) for a cannabis cultivation facility, the information described in Subsection (2);

732 ~~[(g)]~~ (h) for a cannabis processing facility, the information described in Subsection (3);

733 and

734 ~~[(h)]~~ (i) for an independent cannabis testing laboratory, the information described in

735 Subsection (4).

736 (2) (a) A cannabis cultivation facility shall ensure that the facility's operating plan

737 ~~[shall include the cannabis cultivation]~~ includes the facility's intended:

738 (i) cannabis cultivation practices, including the ~~[cannabis cultivation]~~ facility's

739 intended pesticide use~~[-]~~ and fertilizer use~~[-]~~; and

740 (ii) subject to Subsection (2)(b), acreage or square footage under cultivation[-] and

741 anticipated cannabis yield.

742 (b) Except as provided in Subsection (2)(c) or (d):

743 (i) a cannabis cultivation facility that cultivates cannabis indoors may not:

744 (A) use more than 100,000 square feet for cultivation; or

745 (B) hang, suspend, stack or otherwise position plants above other plants to cultivate

746 more plants through use of vertical space; and

747 (ii) a cannabis cultivation facility that cultivates cannabis outdoors may not use more

748 than four acres for cultivation.

749 (c) (i) Each licensee may annually apply to the department for authorization to exceed

750 the cannabis cultivation facility's current cultivation size limitation by up to 20%.

751 (ii) The department may, after conducting a review as described in Subsection

752 4-41a-205(2)(a), grant the authorization described in Subsection (2)(c)(i).

753 (d) If a licensee describes an intended acreage or square footage under cultivation

754 under Subsection (2)(a)(ii) that is less than the limitation described in Subsection (2)(b):

755 (i) the licensee may not cultivate more than the licensee's identified intended acreage or

756 square footage under cultivation; and

757 (ii) notwithstanding Subsection (2)(b), the department may allocate the remaining

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758 difference in acreage or square footage under cultivation to another licensee.

759 (3) A cannabis processing facility's operating plan shall include the [~~cannabis~~
760 ~~processing~~] facility's intended cannabis processing practices, including the cannabis processing
761 facility's intended [~~offered variety of cannabis product, cannabinoid extraction method,~~
762 ~~cannabinoid extraction equipment, processing equipment, processing techniques, and sanitation~~
763 ~~and food safety procedures.~~];

764 (a) offered variety of cannabis product;

765 (b) cannabinoid extraction method;

766 (c) cannabinoid extraction equipment;

767 (d) processing equipment;

768 (e) processing techniques; and

769 (f) sanitation and manufacturing safety procedures for items for human consumption.

770 (4) An independent cannabis testing laboratory's operating plan shall include the
771 [~~independent cannabis testing~~] laboratory's intended:

772 (a) cannabis and cannabis product testing capability [~~and~~];

773 (b) cannabis and cannabis product testing equipment[-]; and

774 (c) testing methods, standards, practices, and procedures for testing cannabis and
775 cannabis products.

776 Section 12. Section ~~4-41a-205~~, which is renumbered from Section 4-41b-204 is
777 renumbered and amended to read:

778 ~~[4-41b-204].~~ **4-41a-205. Number of licenses -- Cannabis cultivation**
779 **facilities.**

780 (1) Except as [~~otherwise~~] provided in Subsection [~~(2)~~] (2)(a), the department may not
781 issue [~~not~~] more than [~~15~~] 10 licenses to operate a cannabis cultivation [~~facilities~~] facility.

782 (2) (a) [~~After January 1, 2022, the~~] The department may issue [~~additional~~] up to five
783 licenses to operate a cannabis cultivation [~~facilities~~] facility in addition to the 10 licenses
784 described in Subsection (1) if the department determines, in consultation with the Department
785 of Health and after an annual or more frequent analysis of the current and anticipated market

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for ~~[medical]~~ cannabis in a medicinal dosage form and ~~[medical]~~ cannabis products in a medicinal dosage form, that each additional ~~[licenses are needed]~~ license is necessary to provide an adequate supply, quality, or variety of ~~[medical]~~ cannabis in a medicinal dosage form and ~~[medical]~~ cannabis products in a medicinal dosage form to medical cannabis ~~[card holders in Utah]~~ cardholders.

(b) If the recipient of one of the initial 10 licenses described in Subsection (1) ceases operations or otherwise abandons the license, the department may but is not required to grant the vacant license to another applicant based on an analysis as described in Subsection (2)(a).

(3) If there are more qualified applicants than ~~[there are]~~ the number of available licenses for cannabis cultivation facilities under Subsections (1) and (2), the department shall evaluate the applicants and award the limited number of licenses described in Subsections (1) and (2) to the applicants that best demonstrate:

(a) experience with establishing and successfully operating a business that involves:

(i) complying with a regulatory environment~~[-]~~;

(ii) tracking inventory~~[-]~~; and

(iii) training, evaluating, and monitoring employees;

(b) an operating plan that will best ensure the safety and security of patrons and the community;

(c) positive connections to the local community; and

(d) the extent to which the applicant can reduce the cost to patients of cannabis in a medicinal dosage form or cannabis products ~~[for patients]~~ in a medicinal dosage form.

(4) The department may conduct a face-to-face interview with an applicant for a license that the department evaluates under Subsection (3).

Section 13. Section ~~4-41a-301~~, which is renumbered from Section 4-41b-301 is renumbered and amended to read:

Part 3. Cannabis Production Establishments Agents

~~[4-41b-301]~~. **4-41a-301. Cannabis production establishment agent -- Registration.**

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(1) An individual may not act as a cannabis production establishment agent unless the department registers the individual ~~[is registered by the department]~~ as a cannabis production establishment agent.

(2) ~~[A physician]~~ The following individuals, regardless of the individual's status as a qualified medical provider, may not serve as a cannabis production establishment agent~~[-]~~, have a financial or voting interest of 2% or greater in a cannabis production establishment, or have the power to direct or cause the management or control of a cannabis production establishment:

(a) a pharmacist licensed under Title 58, Chapter 17b, Pharmacy Practice Act;

(b) an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse Practice Act;

(c) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; or

(d) a physician assistant licensed under Title 58, Chapter 70a, Physician Assistant Act.

(3) An independent cannabis testing laboratory agent may not act as an agent for a medical cannabis ~~[dispensary]~~ pharmacy, the state central fill medical cannabis pharmacy, a cannabis processing facility, or a cannabis cultivation facility.

(4) (a) The department shall, within 15 business days after ~~[receiving]~~ the day on which the department receives a complete application from a cannabis production establishment on behalf of a prospective cannabis production establishment agent, register and issue a cannabis production establishment agent registration card to ~~[an individual who]~~ the prospective agent if the cannabis production establishment:

~~[(a)]~~ (i) provides to the department:

(A) the [individual's] prospective agent's name and address [and];

(B) the name and location of a licensed cannabis production establishment where the [individual] prospective agent will act as the cannabis production establishment's agent; and

(C) the submission required under Subsection (4)(b); and

~~[(b)]~~ (ii) pays a fee to the department[-] in an amount [determined by] that, subject to Subsection 4-41a-104(5), the department sets in accordance with Section 63J-1-504[-] that is

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necessary to cover the department's cost to implement this part].

(b) Each prospective agent described in Subsection (4)(a) shall:

(i) submit to the department:

(A) a fingerprint card in a form acceptable to the Department of Public Safety; and

(B) a signed waiver in accordance with Subsection 53-10-108(4) acknowledging the registration of the prospective agent's fingerprints in the Federal Bureau of Investigation Next Generation Identification System's Rap Back Service; and

(ii) consent to a fingerprint background check by:

(A) the Bureau of Criminal Identification; and

(B) the Federal Bureau of Investigation.

(c) The Bureau of Criminal Identification shall:

(i) check the fingerprints the prospective agent submits under Subsection (4)(b) against the applicable state, regional, and national criminal records databases, including the Federal Bureau of Investigation Next Generation Identification System;

(ii) report the results of the background check to the department;

(iii) maintain a separate file of fingerprints that prospective agents submit under Subsection (4)(b) for search by future submissions to the local and regional criminal records databases, including latent prints;

(iv) request that the fingerprints be retained in the Federal Bureau of Investigation Next Generation Identification System's Rap Back Service for search by future submissions to national criminal records databases, including the Next Generation Identification System and latent prints; and

(v) establish a privacy risk mitigation strategy to ensure that the department only receives notifications for an individual with whom the department maintains an authorizing relationship.

(d) The department shall:

(i) assess an individual who submits fingerprints under Subsection (4)(b) a fee in an amount that the department sets in accordance with Section 63J-1-504 for the services that the

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870 Bureau of Criminal Identification or another authorized agency provides under this section; and
 871 (ii) remit the fee described in Subsection (4)(d) to the Bureau of Criminal
 872 Identification.

873 (5) The department shall designate, on an individual's cannabis production
 874 establishment agent registration card:

875 (a) the name of the cannabis production establishment where the individual is
 876 registered as an agent; and

877 (b) the type of cannabis production establishment for which the individual is
 878 authorized to act as an agent.

879 (6) A cannabis production establishment agent shall comply with:

880 (a) a certification standard ~~[developed by]~~ that the department develops; or

881 (b) ~~[with a third party]~~ a third-party certification standard ~~[designated by]~~ that the
 882 department designates by rule ~~[made]~~, in accordance with Title 63G, Chapter 3, Utah
 883 Administrative Rulemaking Act.

884 (7) The department shall ensure that the certification standard described in Subsection

885 (6) ~~[shall include]~~ includes training:

886 (a) in Utah medical cannabis law;

887 (b) for a cannabis cultivation facility agent, in cannabis cultivation best practices;

888 (c) for a cannabis processing facility agent, in cannabis processing, ~~[food]~~
 889 manufacturing safety procedures for items for human consumption, and sanitation best
 890 practices; and

891 (d) for an independent cannabis testing laboratory agent, in cannabis testing best
 892 practices.

893 (8) ~~[The department may revoke or refuse to issue the]~~ For an individual who holds or
 894 applies for a cannabis production establishment agent registration card ~~[of an individual who]~~:

895 (a) the department may revoke or refuse to issue the card if the individual violates the
 896 requirements of this chapter; ~~[or]~~ and

897 (b) the department shall revoke or refuse to issue the card if the individual is convicted

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898 ~~[of an offense that is a felony]~~ under state or federal law of:

899 (i) a felony; or

900 (ii) after the effective date of this bill, a misdemeanor for drug distribution.

901 (9) (a) A cannabis production establishment agent registration card expires two years
 902 after the day on which the department issues the card.

903 (b) A cannabis production establishment agent may renew the agent's registration card
 904 if the agent:

905 (i) is eligible for a cannabis production establishment registration card under this
 906 section;

907 (ii) certifies to the department in a renewal application that the information in

908 Subsection (4)(a) is accurate or updates the information; and

909 (iii) pays to the department a renewal fee in an amount that:

910 (A) subject to Subsection ~~4-41a-104~~(5), the department sets in accordance with Section
 911 ~~63J-1-504~~; and

912 (B) may not exceed the cost of the relatively lower administrative burden of renewal in
 913 comparison to the original application process.

914 Section 14. Section ~~4-41a-302~~, which is renumbered from Section 4-41b-303 is
 915 renumbered and amended to read:

916 ~~[4-41b-303].~~ **4-41a-302. Cannabis production establishment agent**
 917 **registration card -- Rebuttable presumption.**

918 (1) A cannabis production establishment agent ~~[who is registered with]~~ whom the
 919 department registers under Section ~~[4-41b-301]~~ 4-41a-301 shall carry the individual's cannabis
 920 production establishment agent registration card with the ~~[individual]~~ agent at all times when:

921 (a) the ~~[individual]~~ agent is on the premises of a cannabis production establishment
 922 where the ~~[individual]~~ agent is ~~[a cannabis production establishment agent]~~ registered; ~~[and]~~

923 (b) the ~~[individual]~~ agent is transporting cannabis in a medicinal dosage form, a
 924 cannabis product in a medicinal dosage form, or a medical cannabis device between:

925 (i) two cannabis production establishments; or ~~[between]~~

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(ii) a cannabis production establishment and:

(A) a medical cannabis [dispensary] pharmacy; or

(B) the state central fill medical cannabis pharmacy; and

(c) if the cannabis production establishment agent is an agent of a cannabis cultivating facility, the agent is transporting raw cannabis plants to a cannabis processing facility or an independent cannabis testing laboratory.

(2) If [an individual] a cannabis processing facility agent possesses cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device and produces the registration card in the agent's possession in compliance with Subsection (1) while handling, at a cannabis production establishment, or transporting the cannabis, [a] cannabis product, or [a] medical cannabis device [at a cannabis production establishment, or transporting cannabis, a cannabis product, or a medical cannabis device, possesses the cannabis, cannabis product, or medical cannabis device] in compliance with Subsection (1):

(a) there is a rebuttable presumption that the [individual] agent possesses the cannabis, cannabis product, or medical cannabis device legally; and

(b) a law enforcement officer does not have probable cause, based solely on the [individual's] agent's possession of the cannabis in medicinal dosage form, cannabis product in medicinal dosage form, or medical cannabis device in compliance with Subsection (1), to believe that the individual is engaging in illegal activity.

(3) (a) [An individual] A cannabis production establishment agent who [violates] fails to carry the agent's cannabis production establishment agent registration card in accordance with Subsection (1) is:

(i) for a first or second offense in a two-year period:

(A) guilty of an infraction; and

(B) [is] subject to a \$100 fine[-]; or

(ii) for a third or subsequent offense in a two-year period:

(A) guilty of a class C misdemeanor; and

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(B) subject to a \$750 fine.

(b) (i) The prosecuting entity shall notify the department and the relevant cannabis production establishment of each conviction under Subsection (3)(a).

(ii) For each violation described in Subsection (3)(a)(ii), the department may assess the relevant cannabis production establishment a fine of up to \$5,000, in accordance with a fine schedule that the department establishes by rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(c) An individual who is guilty of a violation described in Subsection (3)(a) is not guilty for a violation of Title 58, Chapter 37, Utah Controlled Substances Act, for the conduct underlying the violation described in Subsection (3)(a).

Section 15. Section ~~4-41a-401~~, which is renumbered from Section 4-41b-401 is renumbered and amended to read:

Part 4. General Cannabis Production Establishment Operating Requirements
~~[4-41b-401].~~ **4-41a-401. Cannabis production establishment -- General operating requirements.**

(1) (a) A cannabis production establishment shall operate in accordance with the operating plan [provided to the department under Section ~~4-41b-203~~] described in Sections ~~4-41a-201~~ and ~~4-41a-204~~.

(b) A cannabis production establishment shall notify the department before a change in the cannabis production establishment's operating plan.

(c) (i) If a cannabis production establishment changes the cannabis production establishment's operating plan, the establishment shall ensure that the new operating plan complies with this chapter.

(ii) The department shall establish by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, a process to:

(A) review a change notification described in Subsection (1)(b);

(B) identify for the cannabis production establishment each point of noncompliance between the new operating plan and this chapter;

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982 (C) provide an opportunity for the cannabis production establishment to address each
 983 identified point of noncompliance; and

984 (D) suspend or revoke a license if the cannabis production establishment fails to cure
 985 the noncompliance.

986 (2) A cannabis production establishment shall operate:

987 (a) except as provided in Subsection (5), in a facility that is accessible only by an
 988 individual with a valid cannabis production establishment agent registration card issued under
 989 Section [~~4-41b-301~~] 4-41a-301; and

990 (b) at the physical address provided to the department under Section [~~4-41b-201~~]
 991 4-41a-201.

992 (3) A cannabis production establishment may not employ [~~any person~~] an individual
 993 who is younger than 21 years [~~of age~~] old.

994 (4) A cannabis production establishment [~~shall conduct a background check into the~~
 995 ~~criminal history of every person who will become an agent of the cannabis production~~
 996 ~~establishment and~~] may not employ [~~any person~~] an individual who has been convicted, [~~of an~~
 997 ~~offense that is a felony~~] under [~~either~~] state or federal law[~~:-~~], of:

998 (a) a felony; or

999 (b) after the effective date of this bill, a misdemeanor for drug distribution.

1000 (5) A cannabis production establishment may authorize an individual who is at least 18
 1001 years old and is not a cannabis production establishment agent to access the cannabis
 1002 production establishment if the cannabis production establishment:

1003 (a) tracks and monitors the individual at all times while the individual is at the
 1004 cannabis production establishment; and

1005 (b) maintains a record of the individual's access, including arrival and departure.

1006 (6) A cannabis production establishment shall operate in a facility that has:

1007 (a) a single, secure public entrance;

1008 (b) a security system with a backup power source that:

1009 (i) detects and records entry into the cannabis production establishment; and

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(ii) provides notice of an unauthorized entry to law enforcement when the cannabis production establishment is closed; and

(c) a lock or equivalent restrictive security feature on any area where the cannabis production establishment stores cannabis or a cannabis product.

Section 16. Section ~~4-41a-402~~, which is renumbered from Section 4-41b-402 is renumbered and amended to read:

~~[4-41b-402]~~. **4-41a-402. Inspections.**

(1) The department may inspect the records and facility of a cannabis production establishment at any time ~~[in order]~~ during business hours to determine if the cannabis production establishment complies with ~~[the requirements of]~~ this chapter.

(2) (a) An inspection under this section may include:

(i) inspection of a site, facility, vehicle, book, record, paper, document, data, and other physical or electronic information;

(ii) questioning of any relevant individual;

(iii) observation of an independent cannabis testing laboratory's methods, standards, practices, and procedures;

(iv) the taking of a specimen of cannabis or cannabis products sufficient for testing purposes; or

(v) inspection of equipment, an instrument, a tool, or machinery, including a container or label.

(b) Notwithstanding Section ~~4-41a-404~~, an authorized department employee may possess and transport a specimen of cannabis or cannabis products for testing described in Subsection (2)(a).

(3) In making an inspection under this section, the department may freely access any area and review and make copies of a book, record, paper, document, data, or other physical or electronic information, including financial data, sales data, shipping data, pricing data, and employee data.

(4) Failure to provide the department or the department's authorized agents immediate

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1038 access to records and facilities during business hours in accordance with this section may result
 1039 in:

1040 (a) the imposition of a civil monetary penalty that the department sets in accordance
 1041 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

1042 (b) license or registration suspension or revocation; or

1043 (c) an immediate cessation of operations under a cease and desist order that the
 1044 department issues.

1045 Section 17. Section ~~4-41a-403~~, which is renumbered from Section 4-41b-403 is
 1046 renumbered and amended to read:

1047 ~~[4-41b-403].~~ **4-41a-403. Advertising.**

1048 (1) A cannabis production establishment may not advertise to the general public in any
 1049 medium.

1050 (2) Notwithstanding Subsection (1), a cannabis production establishment may advertise
 1051 an employment [opportunities] opportunity at the cannabis production facility.

1052 Section 18. Section ~~4-41a-404~~, which is renumbered from Section 4-41b-404 is
 1053 renumbered and amended to read:

1054 ~~[4-41b-404].~~ **4-41a-404. Cannabis, cannabis product, or medical cannabis**
 1055 **device transportation.**

1056 (1) ~~[Except for an individual with a valid medical cannabis card pursuant to Title 26,~~
 1057 ~~Chapter 60b, Medical Cannabis Act, an individual]~~

1058 (a) Only the following individuals may [not] transport cannabis in a medicinal dosage
 1059 form, a cannabis product in a medicinal dosage form, or a medical cannabis device [unless the
 1060 individual is] under this chapter:

1061 ~~[(a)]~~ (i) a registered cannabis production establishment agent; or

1062 ~~[(b)]~~ (ii) [a registered cannabis dispensary agent.] a medical cannabis cardholder who is
 1063 transporting a medical cannabis treatment that the cardholder is authorized to possess under
 1064 this chapter.

1065 (b) Only an agent of a cannabis cultivating facility, when the agent is transporting

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1066 cannabis plants to a cannabis processing facility or an independent cannabis testing laboratory,
 1067 may transport unprocessed cannabis outside of a medicinal dosage form.

1068 (2) Except for an individual with a valid medical cannabis card ~~[pursuant to]~~ under
 1069 Title 26, Chapter ~~[60b]~~ 61a, Utah Medical Cannabis Act, ~~[an individual]~~ who is transporting
 1070 ~~[cannabis, a cannabis product, or]~~ a medical cannabis ~~[device]~~ treatment shall possess a
 1071 transportation manifest that:

1072 (a) includes a unique identifier that links the cannabis, cannabis product, or medical
 1073 cannabis device to a relevant inventory control system;

1074 (b) includes origin and destination information for any cannabis, cannabis product, or
 1075 medical cannabis device that the individual is transporting; and

1076 (c) ~~[indicates]~~ identifies the departure and arrival times and locations of the individual
 1077 transporting the cannabis, cannabis product, or medical cannabis device.

1078 (3) (a) In addition to the requirements in Subsections (1) and (2), the department may
 1079 establish~~;~~ by rule ~~[made]~~, in accordance with Title 63G, Chapter 3, Utah Administrative
 1080 Rulemaking Act, requirements for transporting cannabis in a medicinal dosage form, a
 1081 cannabis product in a medicinal dosage form, or a medical cannabis device to ensure that ~~[are~~
 1082 ~~related to safety for human]~~ the cannabis ~~[or]~~, cannabis product ~~[consumption.]~~, or medical
 1083 cannabis device remains safe for human consumption.

1084 (b) The transportation described in Subsection (3)(a) is limited to transportation:

1085 (i) between a cannabis cultivation facility and:

1086 (A) another cannabis cultivation facility; or

1087 (B) a cannabis processing facility; and

1088 (ii) between a cannabis processing facility and:

1089 (A) another cannabis processing facility;

1090 (B) an independent cannabis testing laboratory; or

1091 (C) a medical cannabis pharmacy.

1092 (4) (a) ~~[An individual who transports cannabis, a cannabis product, or a medical~~
 1093 ~~cannabis device]~~ It is unlawful for a registered cannabis production establishment agent to

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1094 make a transport described in this section with a manifest that does not meet the requirements
 1095 of this section ~~[is:]~~.

1096 (b) Except as provided in Subsection (4)(d), an agent who violates Subsection (4)(a) is:
 1097 ~~[(a)]~~ (i) guilty of an infraction; and
 1098 ~~[(b)]~~ (ii) subject to a \$100 fine.

1099 (c) An individual who is guilty of a violation described in Subsection (4)(b) is not
 1100 guilty of a violation of Title 58, Chapter 37, Utah Controlled Substances Act, for the conduct
 1101 underlying the violation described in Subsection (4)(b).

1102 (d) If the agent described in Subsection (4)(a) is transporting more cannabis, cannabis
 1103 product, or medical cannabis devices than the manifest identifies, except for a de minimis
 1104 administrative error:

1105 (i) the penalty described in Subsection (4)(b) does not apply; and
 1106 (ii) the agent is subject to penalties under Title 58, Chapter 37, Utah Controlled
 1107 Substances Act.

1108 (5) Nothing in this section prevents the department from taking administrative
 1109 enforcement action against a cannabis production establishment or another person for failing to
 1110 make a transport in compliance with the requirements of this section.

1111 Section 19. Section **4-41a-405** is enacted to read:

1112 **4-41a-405. Excess and disposal.**

1113 (1) As used in this section, "medical cannabis waste" means waste and unused material
 1114 from the cultivation and production of medical cannabis.

1115 (2) A cannabis production establishment shall:

1116 (a) render medical cannabis waste unusable and unrecognizable before transporting the
 1117 medical cannabis waste from the cannabis production establishment; and

1118 (b) dispose of medical cannabis waste in accordance with:

1119 (i) federal and state laws, rules, and regulations related to hazardous waste;

1120 (ii) the Resource Conservation and Recovery Act, 42 U.S.C. Sec. 6991 et seq.;

1121 (iii) Title 19, Chapter 6, Part 5, Solid Waste Management Act; and

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(iv) other regulations that the department makes in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(3) An individual may not transport or dispose of medical cannabis waste other than as provided in this section.

Section 20. Section ~~4-41a-406~~, which is renumbered from Section 4-41b-405 is renumbered and amended to read:

~~[4-41b-405].~~ **4-41a-406. Local control.**

(1) ~~[A municipality or county may not enact a zoning ordinance that prohibits a cannabis production establishment from operating in a location within the municipality's or county's jurisdiction on the sole basis that the cannabis production establishment possesses, grows, manufactures, or sells cannabis.]~~

(a) If a municipality's or county's zoning ordinances provide for an industrial zone, the municipality or county shall ensure that the ordinances allow for cannabis production establishments in at least one type of industrial zone.

(b) If a municipality's or county's zoning ordinances provide for an agricultural zone, the municipality or county shall ensure that the ordinances allow for cannabis production establishments in at least one type of agricultural zone.

(2) (a) A municipality or county may not deny or revoke a land use permit [or license] to operate a cannabis production facility on the sole basis that the applicant or cannabis production establishment violates [a] federal law [of] regarding the [United States] legal status of cannabis.

(b) A municipality or county may not deny or revoke a business license to operate a cannabis production facility on the sole basis that the applicant or cannabis production establishment violates federal law regarding the legal status of cannabis.

Section 21. Section ~~4-41a-501~~, which is renumbered from Section 4-41b-501 is renumbered and amended to read:

Part 5. Cannabis Cultivation Facility Operating Requirements.

~~[4-41b-501].~~ **4-41a-501. Cannabis cultivation facility -- Operating**

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1150 **requirements.**

1151 (1) A cannabis cultivation facility shall ensure that any cannabis growing at the
1152 cannabis cultivation facility is not visible ~~[at]~~ from the ground level of the cannabis cultivation
1153 facility perimeter.

1154 (2) A cannabis cultivation facility shall use a unique identifier that is connected to the
1155 cannabis cultivation facility's inventory control system ~~[for]~~ to identify:

1156 (a) beginning at the time a cannabis plant is ~~[8]~~ eight inches tall and has a root ball,
1157 each cannabis plant;

1158 (b) each unique harvest of cannabis plants;

1159 (c) each batch of cannabis ~~[transferred]~~ the facility transfers to a medical cannabis
1160 ~~[dispensary]~~ pharmacy, the state central fill medical cannabis pharmacy, a cannabis processing
1161 facility, or an independent cannabis testing laboratory; and

1162 (d) ~~[disposal of]~~ any excess, contaminated, or deteriorated cannabis of which the
1163 cannabis cultivation facility disposes.

1164 Section 22. Section ~~4-41a-502~~, which is renumbered from Section 4-41b-502 is
1165 renumbered and amended to read:

1166 ~~[4-41b-502].~~ **4-41a-502. Cannabis -- Labeling and child-resistant**
1167 **packaging.**

1168 For any cannabis that a cannabis cultivation facility cultivates or otherwise produces
1169 and subsequently ships to another cannabis production establishment, the facility shall:

1170 (1) ~~[Cannabis shall have a]~~ label the cannabis with a label that ~~[(a)]~~ has a unique batch
1171 identification number that is connected to the inventory control system; and ~~[(b) does not~~
1172 ~~display images, words, or phrases that are intended to appeal to children. (2) A cannabis~~
1173 ~~cultivation facility shall]~~

1174 (2) package the cannabis in a container that is:

1175 (a) ~~[is]~~ is tamper evident; and

1176 (b) ~~[is]~~ is not appealing to children. ~~[or similar to a candy container;]~~

1177 ~~[(c) is opaque; and]~~

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1178 ~~[(d) complies with child-resistant effectiveness standards established by the United~~
 1179 ~~States Consumer Product Safety Commission.]~~

1180 Section 23. Section **4-41a-601**, which is renumbered from Section 4-41b-601 is
 1181 renumbered and amended to read:

1182 **Part 6. Cannabis Processing Facility Operating Requirements.**

1183 ~~[4-41b-601].~~ **4-41a-601. Cannabis processing facility -- Operating**
 1184 **requirements -- General.**

1185 ~~[(1)]~~ A cannabis processing facility shall ensure that a cannabis product ~~[sold by]~~ the
 1186 cannabis processing facility sells complies with the requirements of this part.

1187 ~~[(2) If a cannabis processing facility extracts cannabinoids from cannabis using a~~
 1188 ~~hydrocarbon process, the cannabis processing facility shall extract the cannabinoids under a~~
 1189 ~~blast hood and shall use a system to reclaim solvents.]~~

1190 Section 24. Section **4-41a-602**, which is renumbered from Section 4-41b-602 is
 1191 renumbered and amended to read:

1192 ~~[4-41b-602].~~ **4-41a-602. Cannabis product -- Labeling and child-resistant**
 1193 **packaging.**

1194 (1) ~~[A]~~ For any cannabis product that a cannabis processing facility processes or
 1195 produces, the facility shall [have a]:

1196 (a) label the cannabis product with a label that:

1197 ~~[(a)]~~ (i) clearly and unambiguously states that the cannabis product contains cannabis;

1198 ~~[(b)]~~ (ii) clearly displays the amount of total composite tetrahydrocannabinol and
 1199 cannabidiol in the [cannabis product] labeled container;

1200 ~~[(c)]~~ (iii) has a unique identification number that:

1201 ~~[(i)]~~ (A) is connected to the inventory control system; and

1202 ~~[(ii)]~~ (B) identifies the unique cannabis product manufacturing process [by which] the
 1203 cannabis processing facility used to manufacture the cannabis product [was manufactured];

1204 ~~[(d)]~~ (iv) identifies the cannabinoid extraction process that the cannabis processing
 1205 facility used to create the cannabis product;

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1206 ~~[(e)]~~ (v) does not display ~~[images, words, or phrases]~~ an image, word, or phrase that

1207 ~~[are intended to appeal]~~ the facility knows or should know appeals to children; and

1208 ~~[(f)]~~ (vi) discloses ~~[ingredients]~~ each active or potentially active ingredient, in order of

1209 prominence, and possible ~~[allergens.]~~ allergen; and

1210 ~~[(2)]~~ (b) ~~[A cannabis processing facility shall]~~ package ~~[a]~~ the cannabis product in a

1211 medicinal dosage form in a container that:

1212 ~~[(a)]~~ (i) except for a blister pack, is tamper evident and tamper resistant;

1213 ~~[(b)]~~ (ii) does not appeal to children;

1214 ~~[(iii)]~~ ~~[is not appealing to children or similar to]~~ does not mimic a candy container;

1215 ~~[(c)]~~ (iv) except for a blister pack, is opaque; [and]

1216 ~~[(d)]~~ (v) complies with child-resistant effectiveness standards ~~[established by]~~ that the

1217 United States Consumer Product Safety Commission[-] establishes; and

1218 (vi) includes a warning label that states: "WARNING: Cannabis has intoxicating

1219 effects and may be addictive. Do not operate a vehicle or machinery under its influence. KEEP

1220 OUT OF REACH OF CHILDREN. This product is for medical use only. Use only as directed

1221 by a qualified medical provider."

1222 (2) For any cannabis or cannabis product that the cannabis processing facility processes

1223 into a gelatinous cube, gelatinous rectangular cuboid, or lozenge in a cube or rectangular

1224 cuboid shape, the facility shall:

1225 (a) ensure that the label described in Subsection (1)(a) does not contain a photograph or

1226 other image of the content of the container; and

1227 (b) include on the label described in Subsection (1)(a) a warning about the risks of

1228 over-consumption.

1229 (3) The department shall make rules in accordance with Title 63G, Chapter 3, Utah

1230 Administrative Rulemaking Act, establishing a standard labeling format that:

1231 (a) complies with the requirements of this section; and

1232 (b) ensures inclusion of a pharmacy label.

1233 Section 25. Section ~~4-41a-603~~, which is renumbered from Section 4-41b-603 is

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1234 renumbered and amended to read:

1235 ~~[4-41b-603].~~ **4-41a-603. Cannabis product -- Product quality.**

1236 (1) A cannabis processing facility may not produce a cannabis product in a physical
1237 form that:

1238 (a) ~~[is intended to appeal]~~ the facility knows or should know appeals to children; ~~[or]~~

1239 (b) is designed to mimic or could be mistaken for ~~[an existing]~~ a candy product~~[-]; or~~

1240 (c) for a product used in vaporization, includes a candy-like flavor or another flavor
1241 that the facility knows or should know appeals to children.

1242 ~~[(2) A cannabis processing facility may not manufacture a cannabis product by~~
1243 ~~applying a cannabis agent only to the surface of a pre-manufactured food product that is not~~
1244 ~~produced by the cannabis processing facility.]~~

1245 ~~[(3)]~~ (2) A cannabis product may vary in the cannabis product's labeled [cannabis]
1246 cannabinoid profile by up to [15%] 10% of the indicated amount of a given cannabinoid, by
1247 weight.

1248 ~~[(4)]~~ (3) The department shall adopt[;] by rule [made], in accordance with Title 63G,
1249 Chapter 3, Utah Administrative Rulemaking Act, human safety standards for [manufacture] the
1250 manufacturing of cannabis products that are consistent[; to the extent possible,] with [rules for
1251 similar products that do not contain] best practices for the use of cannabis.

1252 Section 26. Section **4-41a-701**, which is renumbered from Section 4-41b-701 is
1253 renumbered and amended to read:

1254 **Part 7. Independent Cannabis Testing Laboratories.**

1255 ~~[4-41b-701].~~ **4-41a-701. Cannabis and cannabis product testing.**

1256 (1) ~~[No]~~ A medical cannabis pharmacy and the state central fill medical cannabis
1257 pharmacy may not offer any cannabis or cannabis product [may be offered] for sale [at a
1258 cannabis dispensary] unless an independent cannabis testing laboratory has tested a
1259 representative sample of the cannabis or cannabis product [has been tested by an independent
1260 cannabis testing laboratory] to determine:

1261 (a) (i) the amount of total composite tetrahydrocannabinol and cannabidiol in the

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1262 cannabis or cannabis product; and

1263 (ii) the amount of any other cannabinoid in the cannabis or cannabis product that the
 1264 label claims the cannabis or cannabis product contains;

1265 (b) that the presence of contaminants, including mold, fungus, pesticides, microbial
 1266 contaminants, heavy metals, or foreign material, does not exceed an amount that is safe for
 1267 human consumption; and

1268 (c) for a cannabis product that is manufactured using a process that involves extraction
 1269 using hydrocarbons, that the cannabis product does not contain ~~[an unhealthy]~~ a level of a
 1270 residual solvent that is not safe for human consumption.

1271 (2) ~~[The department may determine, by]~~ By rule [made], in accordance with Title 63G,
 1272 Chapter 3, Utah Administrative Rulemaking Act, the department:

1273 (a) may determine the amount of [a] any substance described in [Subsection (1)]
 1274 Subsections (1)(b) and (c) that is safe for human consumption[-]; and

1275 (b) shall establish protocols for a recall of cannabis or a cannabis product by a cannabis
 1276 production establishment.

1277 (3) The department may require testing for a toxin if:

1278 (a) the department receives information indicating the potential presence of a toxin; or

1279 (b) the department's inspector has reason to believe a toxin may be present based on the
 1280 inspection of a facility.

1281 (4) The department shall establish by rule, in accordance with Title 63G, Chapter 3,
 1282 Utah Administrative Rulemaking Act, the standards, methods, practices, and procedures for the
 1283 testing of cannabis and cannabis products by independent cannabis testing laboratories.

1284 (5) The department may require an independent cannabis testing laboratory to
 1285 participate in a proficiency evaluation that the department conducts or that an organization that
 1286 the department approves conducts.

1287 Section 27. Section ~~4-41a-702~~, which is renumbered from Section 4-41b-702 is
 1288 renumbered and amended to read:

1289 ~~[4-41b-702].~~ **4-41a-702. Reporting -- Inspections -- Seizure by the**

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1290 **department.**

1291 (1) If an independent cannabis testing laboratory determines that the results of a lab test
 1292 indicate that a cannabis or cannabis product batch may be unsafe for human ~~[consumption, the~~
 1293 ~~independent cannabis testing laboratory shall]~~ use:

1294 (a) the independent cannabis testing laboratory shall:

1295 ~~[(a)]~~ (i) report the results and the cannabis or cannabis product batch to:

1296 ~~[(i)]~~ (A) the department; and

1297 ~~[(ii)]~~ (B) the cannabis production establishment that prepared the cannabis or cannabis
 1298 product batch; and

1299 ~~[(b)]~~ (ii) retain possession of the cannabis or cannabis product batch for ~~[one week]~~
 1300 two weeks in order to investigate the cause of the defective batch and to make a determination;
 1301 and

1302 ~~[(c)]~~ (b) ~~[allow]~~ the cannabis production establishment that prepared the cannabis or
 1303 cannabis product batch ~~[to]~~ may appeal the determination described in Subsection ~~[(1)(b)]~~
 1304 (1)(a)(ii) to the department.

1305 (2) If ~~[, under Subsection (1)(b),]~~ the department determines, under Subsection (1)(a)(ii)
 1306 or following an appeal under Subsection (1)(b), that a cannabis or cannabis product prepared
 1307 by a cannabis production establishment is unsafe for human consumption, the department may
 1308 seize, embargo, or destroy, in the same manner as a cannabis production establishment under
 1309 Section 4-41a-405, the cannabis or cannabis product batch.

1310 (3) If an independent cannabis testing laboratory determines that the results of a lab test
 1311 indicate that the cannabinoid content of a cannabis or cannabis product batch diverges more
 1312 than 10% from the amounts the label indicates, the cannabis processing facility may not sell the
 1313 cannabis or cannabis product batch unless the facility replaces the incorrect label with a label
 1314 that correctly indicates the cannabinoid content.

1315 Section 28. Section **4-41a-801**, which is renumbered from Section 4-41b-801 is
 1316 renumbered and amended to read:

1317 ~~[4-41b-801].~~ **4-41a-801. Enforcement -- Fine -- Citation.**

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(1) ~~[The department may, for a violation of this chapter by]~~ If a person that is a cannabis production establishment or a cannabis production establishment agent violates this chapter, the department may:

(a) revoke the person's license or cannabis production establishment agent registration card;

(b) ~~[refuse]~~ decline to renew the person's license or cannabis production establishment agent registration card; or

(c) assess the person an administrative penalty that the department establishes by rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(2) The department shall deposit an administrative penalty imposed under this section ~~[in the general fund]~~ into the General Fund.

(3) (a) The department may take an action described in Subsection (3)(b) if the department concludes, upon ~~[inspection or]~~ investigation, that, for a person that is a cannabis production establishment or a cannabis production establishment agent:

(i) the person has violated the provisions of this chapter, a rule made under this chapter, or an order issued under this chapter; or

(ii) the person produced cannabis or a cannabis product batch that contains a substance, other than cannabis, that poses a significant threat to human health.

(b) If the department makes the determination about a person described in Subsection (3)(a), the department shall:

(i) issue the person a written administrative citation;

(ii) attempt to negotiate a stipulated settlement;

(iii) seize, embargo, or destroy the cannabis or cannabis product batch; ~~[and]~~

(iv) order the person to cease and desist from the action that creates a violation; and

~~[(iv)]~~ (v) direct the person to appear before an adjudicative proceeding conducted under Title 63G, Chapter 4, Administrative Procedures Act.

(4) The department may, for a person subject to an uncontested citation, a stipulated settlement, or a finding of a violation in an adjudicative proceeding under this section~~[(a)]~~, for

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a fine amount not already specified in law, assess the person, who is not an individual, a fine[
~~established in accordance with Section 63J-1-504,~~] of up to \$5,000 per violation, in accordance
 with a fine schedule [~~established by~~] that the department establishes by rule [made] in
 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act[~~;~~or].

~~[(b) order the person to cease and desist from the action that creates a violation.]~~

(5) The department may not revoke a cannabis production establishment's license
 without first [~~direct~~] directing the cannabis production establishment to appear before an
 adjudicative proceeding conducted under Title 63G, Chapter 4, Administrative Procedures Act.

(6) If within 20 calendar days after the day on which a department serves a citation for
 a violation of this chapter, the person that is the subject of the citation fails to request a hearing
 to contest the citation, the citation becomes the department's final order.

(7) The department may, for a person who fails to comply with a citation under this
 section:

(a) refuse to issue or renew the person's license or cannabis production establishment
 agent registration card; or

(b) suspend, revoke, or place on probation the person's license or cannabis production
 establishment registration card.

~~(8) [If the department makes a final determination under this section that]~~

(a) Except where a criminal penalty is expressly provided for a specific violation of
 this chapter, if an individual [violated]:

(i) violates a provision of this chapter, the individual is:

(A) guilty of an infraction[;]; and

(B) subject to a \$100 fine; or

(ii) intentionally or knowingly violates a provision of this chapter or violates this
 chapter three or more times, the individual is:

(A) guilty of a class B misdemeanor; and

(B) subject to a \$1,000 fine.

(b) An individual who is guilty of a violation described in Subsection (8)(a) is not

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1374 guilty of a violation of Title 58, Chapter 37, Utah Controlled Substances Act, for the conduct
 1375 underlying the violation described in Subsection (8)(a).

1376 (9) Nothing in this section prohibits the department from referring potential criminal
 1377 activity to law enforcement.

1378 Section 29. Section ~~4-41a-802~~, which is renumbered from Section 4-41b-802 is
 1379 renumbered and amended to read:

1380 ~~[4-41b-802].~~ **4-41a-802. Report.**

1381 (1) ~~[The]~~ At or before the November interim meeting each year, the department shall
 1382 report ~~[annually]~~ to the Health and Human Services Interim Committee on:

1383 (a) the number of applications and renewal applications ~~[received,]~~ that the department
 1384 receives under this chapter;

1385 (b) the number of each type of cannabis production facility ~~[licensed]~~ that the
 1386 department licenses in each county[;];

1387 (c) the amount of cannabis ~~[grown by]~~ that licensees[;] grow;

1388 (d) the amount of cannabis ~~[manufactured]~~ that licensees manufacture into cannabis
 1389 products ~~[by licensees,];~~

1390 (e) the number of licenses ~~[revoked,]~~ the department revokes under this chapter; and

1391 (f) the expenses incurred and revenues generated ~~[from the medical cannabis program]~~
 1392 under this chapter.

1393 (2) The department may not include personally identifying information in the report
 1394 described in this section.

1395 Section 30. Section ~~7-1-401~~ is amended to read:

1396 **7-1-401. Fees payable to commissioner.**

1397 (1) Except for an out-of-state depository institution with a branch in Utah, a depository
 1398 institution under the jurisdiction of the department shall pay an annual fee:

1399 (a) computed by averaging the total assets of the depository institution shown on each
 1400 quarterly report of condition for the depository institution for the calendar year immediately
 1401 preceding the date on which the annual fee is due under Section ~~7-1-402~~; and

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- 1402 (b) at the following rates:
- 1403 (i) on the first \$5,000,000 of these assets, the greater of:
- 1404 (A) 65 cents per \$1,000; or
- 1405 (B) \$500;
- 1406 (ii) on the next \$10,000,000 of these assets, 35 cents per \$1,000;
- 1407 (iii) on the next \$35,000,000 of these assets, 15 cents per \$1,000;
- 1408 (iv) on the next \$50,000,000 of these assets, 12 cents per \$1,000;
- 1409 (v) on the next \$200,000,000 of these assets, 10 cents per \$1,000;
- 1410 (vi) on the next \$300,000,000 of these assets, 6 cents per \$1,000; and
- 1411 (vii) on all amounts over \$600,000,000 of these assets, 2 cents per \$1,000.
- 1412 (2) A financial institution with a trust department shall pay a fee determined in
- 1413 accordance with Subsection (7) for each examination of the trust department by a state
- 1414 examiner.
- 1415 (3) Notwithstanding Subsection (1), a credit union in its first year of operation shall
- 1416 pay a basic fee of \$25 instead of the fee required under Subsection (1).
- 1417 (4) A trust company that is not a depository institution or a subsidiary of a depository
- 1418 institution holding company shall pay:
- 1419 (a) an annual fee of \$500; and
- 1420 (b) an additional fee determined in accordance with Subsection (7) for each
- 1421 examination by a state examiner.
- 1422 (5) Any person or institution under the jurisdiction of the department that does not pay
- 1423 a fee under Subsections (1) through (4) shall pay:
- 1424 (a) an annual fee of \$200; and
- 1425 (b) an additional fee determined in accordance with Subsection (7) for each
- 1426 examination by a state examiner.
- 1427 (6) A person filing an application or request under Section 7-1-503, 7-1-702, 7-1-703,
- 1428 7-1-704, 7-1-713, 7-5-3, or 7-18a-202~~[, or 7-26-201]~~ shall pay:
- 1429 (a) (i) a filing fee of \$500 if on the day on which the application or request is filed the

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1430 person:

1431 (A) is a person with authority to transact business as~~[(H)]~~ a depository institution~~;~~
 1432 ~~(H)]~~, a trust company~~;~~, or ~~[(HH)]~~ any other person described in Section 7-1-501 as being
 1433 subject to the jurisdiction of the department; and

1434 (B) has total assets in an amount less than \$5,000,000; or

1435 (ii) a filing fee of \$2,500 for any person not described in Subsection (6)(a)(i); and

1436 (b) all reasonable expenses incurred in processing the application.

1437 (7) (a) Per diem assessments for an examination shall be calculated at the rate of \$55

1438 per hour:

1439 (i) for each examiner; and

1440 (ii) per hour worked.

1441 (b) For an examination of a branch or office of a financial institution located outside of
 1442 this state, in addition to the per diem assessment under this Subsection (7), the institution shall
 1443 pay all reasonable travel, lodging, and other expenses incurred by each examiner while
 1444 conducting the examination.

1445 (8) In addition to a fee under Subsection (5), a person registering under Section
 1446 7-23-201 or 7-24-201 shall pay an original registration fee of \$300.

1447 (9) In addition to a fee under Subsection (5), a person applying for licensure under
 1448 Chapter 25, Money Transmitter Act, shall pay an original license fee of \$300.

1449 Section 31. Section 10-9a-104 is amended to read:

1450 **10-9a-104. Stricter requirements.**

1451 (1) Except as provided in Subsection (2), a municipality may enact ~~[an ordinance]~~ a
 1452 land use regulation imposing stricter requirements or higher standards than are required by this
 1453 chapter.

1454 (2) A municipality may not impose ~~[stricter requirements or higher standards than are~~
 1455 ~~required by.]~~

1456 ~~[(a) Section 4-41b-405;]~~

1457 ~~[(b) Section 10-9a-305;]~~

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1458 ~~[(c) Section 10-9a-514; and]~~
 1459 ~~[(d) Section 26-60b-506;]~~ a requirement or standard that conflicts with a provision of
 1460 this chapter, other state law, or federal law.

1461 Section 32. Section **17-27a-104** is amended to read:

1462 **17-27a-104. Stricter requirements or higher standards.**

1463 (1) Except as provided in Subsection (2), a county may enact ~~[an ordinance]~~ a land use
 1464 regulation imposing stricter requirements or higher standards than are required by this chapter.

1465 (2) A county may not impose ~~[stricter requirements or higher standards than are~~
 1466 ~~required by:]~~

1467 ~~[(a) Section 4-41b-405;]~~

1468 ~~[(b) Section 17-27a-305;]~~

1469 ~~[(c) Section 17-27a-513; and]~~

1470 ~~[(d) Section 26-60b-506;]~~ a requirement or standard that conflicts with a provision of
 1471 this chapter, other state law, or federal law.

1472 Section 33. Section **26-36d-101** is enacted to read:

1473 **CHAPTER 36d. HOSPITAL PROVIDER ASSESSMENT ACT.**

1474 **Part 1. General Provisions.**

1475 **26-36d-101. Title.**

1476 This chapter is known as the "Hospital Provider Assessment Act."

1477 Section 34. Section **26-36d-102** is enacted to read:

1478 **26-36d-102. Legislative findings.**

1479 (1) The Legislature finds that there is an important state purpose to improve the access
 1480 of Medicaid patients to quality care in Utah hospitals because of continuous decreases in state
 1481 revenues and increases in enrollment under the Utah Medicaid program.

1482 (2) The Legislature finds that in order to improve this access to those persons described
 1483 in Subsection (1):

1484 (a) the rates paid to Utah hospitals shall be adequate to encourage and support
 1485 improved access; and

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1486 (b) adequate funding shall be provided to increase the rates paid to Utah hospitals
 1487 providing services pursuant to the Utah Medicaid program.

1488 Section 35. Section **26-36d-103** is enacted to read:

1489 **26-36d-103. Definitions.**

1490 As used in this chapter:

1491 (1) "Accountable care organization" means a managed care organization, as defined in
 1492 42 C.F.R. Sec. 438, that contracts with the department under the provisions of Section
 1493 26-18-405.

1494 (2) "Assessment" means the Medicaid hospital provider assessment established by this
 1495 chapter.

1496 (3) "Discharges" means the number of total hospital discharges reported on worksheet
 1497 S-3 Part I, column 15, lines 12, 14, and 14.01 of the 2552-96 Medicare Cost Report or on
 1498 Worksheet S-3 Part I, column 15, lines 14, 16, and 17 of the 2552-10 Medicare Cost Report for
 1499 the applicable assessment year.

1500 (4) "Division" means the Division of Health Care Financing of the department.

1501 (5) "Hospital":

1502 (a) means a privately owned:

1503 (i) general acute hospital operating in the state as defined in Section 26-21-2; and

1504 (ii) specialty hospital operating in the state, which shall include a privately owned
 1505 hospital whose inpatient admissions are predominantly:

1506 (A) rehabilitation;

1507 (B) psychiatric;

1508 (C) chemical dependency; or

1509 (D) long-term acute care services; and

1510 (b) does not include:

1511 (i) a human services program, as defined in Section 62A-2-101;

1512 (ii) a hospital owned by the federal government, including the Veterans Administration
 1513 Hospital; or

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1514 (iii) a hospital that is owned by the state government, a state agency, or a political
 1515 subdivision of the state, including:
 1516 (A) a state-owned teaching hospital; and
 1517 (B) the Utah State Hospital.
 1518 (6) "Medicare Cost Report" means CMS-2552-96 or CMS-2552-10, the cost report for
 1519 electronic filing of hospitals.
 1520 (7) "State plan amendment" means a change or update to the state Medicaid plan.
 1521 Section 36. Section **26-36d-201** is enacted to read:

Part 2. Application of Chapter.**26-36d-201. Application of chapter.**

1524 (1) Other than for the imposition of the assessment described in this chapter, nothing in
 1525 this chapter shall affect the nonprofit or tax exempt status of any nonprofit charitable, religious,
 1526 or educational health care provider under:
 1527 (a) Section 501(c), as amended, of the Internal Revenue Code;
 1528 (b) other applicable federal law;
 1529 (c) any state law;
 1530 (d) any ad valorem property taxes;
 1531 (e) any sales or use taxes; or
 1532 (f) any other taxes, fees, or assessments, whether imposed or sought to be imposed by
 1533 the state or any political subdivision, county, municipality, district, authority, or any agency or
 1534 department thereof.
 1535 (2) All assessments paid under this chapter may be included as an allowable cost of a
 1536 hospital for purposes of any applicable Medicaid reimbursement formula.
 1537 (3) This chapter does not authorize a political subdivision of the state to:
 1538 (a) license a hospital for revenue;
 1539 (b) impose a tax or assessment upon hospitals; or
 1540 (c) impose a tax or assessment measured by the income or earnings of a hospital.
 1541 Section 37. Section **26-36d-202** is enacted to read:

H.B. 3001**Enrolled Copy****26-36d-202. Assessment, collection, and payment of hospital provider assessment.**

(1) A uniform, broad based, assessment is imposed on each hospital as defined in

Subsection 26-36d-103(5)(a):

(a) in the amount designated in Section 26-36d-203; and

(b) in accordance with Section 26-36d-204.

(2) (a) The assessment imposed by this chapter is due and payable on a quarterly basis in accordance with Section 26-36d-204.

(b) The collecting agent for this assessment is the department which is vested with the administration and enforcement of this chapter, including the right to adopt administrative rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, necessary to:

(i) implement and enforce the provisions of this act; and

(ii) audit records of a facility:

(A) that is subject to the assessment imposed by this chapter; and

(B) does not file a Medicare Cost Report.

(c) The department shall forward proceeds from the assessment imposed by this chapter to the state treasurer for deposit in the expendable special revenue fund as specified in Section 26-36d-207.

(3) The department may, by rule, extend the time for paying the assessment.

Section 38. Section **26-36d-203** is enacted to read:

26-36d-203. Calculation of assessment.

(1) (a) An annual assessment is payable on a quarterly basis for each hospital in an amount calculated at a uniform assessment rate for each hospital discharge, in accordance with this section.

(b) The uniform assessment rate shall be determined using the total number of hospital discharges for assessed hospitals divided into the total non-federal portion in an amount consistent with Section 26-36d-205 that is needed to support capitated rates for accountable care organizations for purposes of hospital services provided to Medicaid enrollees.

(c) Any quarterly changes to the uniform assessment rate shall be applied uniformly to

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1570 all assessed hospitals.

1571 (d) The annual uniform assessment rate may not generate more than:

1572 (i) \$1,000,000 to offset Medicaid mandatory expenditures; and

1573 (ii) the non-federal share to seed amounts needed to support capitated rates for

1574 accountable care organizations as provided for in Subsection (1)(b).

1575 (2) (a) For each state fiscal year, discharges shall be determined using the data from

1576 each hospital's Medicare Cost Report contained in the Centers for Medicare and Medicaid

1577 Services' Healthcare Cost Report Information System file. The hospital's discharge data will be

1578 derived as follows:

1579 (i) for state fiscal year 2013, the hospital's cost report data for the hospital's fiscal year

1580 ending between July 1, 2009, and June 30, 2010;

1581 (ii) for state fiscal year 2014, the hospital's cost report data for the hospital's fiscal year

1582 ending between July 1, 2010, and June 30, 2011;

1583 (iii) for state fiscal year 2015, the hospital's cost report data for the hospital's fiscal year

1584 ending between July 1, 2011, and June 30, 2012;

1585 (iv) for state fiscal year 2016, the hospital's cost report data for the hospital's fiscal year

1586 ending between July 1, 2012, and June 30, 2013; and

1587 (v) for each subsequent state fiscal year, the hospital's cost report data for the hospital's

1588 fiscal year that ended in the state fiscal year two years prior to the assessment fiscal year.

1589 (b) If a hospital's fiscal year Medicare Cost Report is not contained in the Centers for

1590 Medicare and Medicaid Services' Healthcare Cost Report Information System file:

1591 (i) the hospital shall submit to the division a copy of the hospital's Medicare Cost

1592 Report applicable to the assessment year; and

1593 (ii) the division shall determine the hospital's discharges.

1594 (c) If a hospital is not certified by the Medicare program and is not required to file a

1595 Medicare Cost Report:

1596 (i) the hospital shall submit to the division its applicable fiscal year discharges with

1597 supporting documentation;

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1598 (ii) the division shall determine the hospital's discharges from the information
 1599 submitted under Subsection (2)(c)(i); and

1600 (iii) the failure to submit discharge information shall result in an audit of the hospital's
 1601 records and a penalty equal to 5% of the calculated assessment.

1602 (3) Except as provided in Subsection (4), if a hospital is owned by an organization that
 1603 owns more than one hospital in the state:

1604 (a) the assessment for each hospital shall be separately calculated by the department;
 1605 and

1606 (b) each separate hospital shall pay the assessment imposed by this chapter.

1607 (4) Notwithstanding the requirement of Subsection (3), if multiple hospitals use the
 1608 same Medicaid provider number:

1609 (a) the department shall calculate the assessment in the aggregate for the hospitals
 1610 using the same Medicaid provider number; and

1611 (b) the hospitals may pay the assessment in the aggregate.

1612 Section 39. Section **26-36d-204** is enacted to read:

1613 **26-36d-204. Quarterly notice -- Collection.**

1614 Quarterly assessments imposed by this chapter shall be paid to the division within 15
 1615 business days after the original invoice date that appears on the invoice issued by the division.

1616 Section 40. Section **26-36d-205** is enacted to read:

1617 **26-36d-205. Medicaid hospital adjustment under accountable care organization**
 1618 **rates.**

1619 To preserve and improve access to hospital services, the division shall, for accountable
 1620 care organization rates effective on or after April 1, 2013, incorporate an annualized amount
 1621 equal to \$154,000,000 into the accountable care organization rate structure calculation
 1622 consistent with the certified actuarial rate range.

1623 Section 41. Section **26-36d-206** is enacted to read:

1624 **26-36d-206. Penalties and interest.**

1625 (1) A facility that fails to pay any assessment or file a return as required under this

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chapter, within the time required by this chapter, shall pay, in addition to the assessment, penalties and interest established by the department.

(2) (a) Consistent with Subsection (2)(b), the department shall adopt rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, which establish reasonable penalties and interest for the violations described in Subsection (1).

(b) If a hospital fails to timely pay the full amount of a quarterly assessment, the department shall add to the assessment:

(i) a penalty equal to 5% of the quarterly amount not paid on or before the due date;

and

(ii) on the last day of each quarter after the due date until the assessed amount and the penalty imposed under Subsection (2)(b)(i) are paid in full, an additional 5% penalty on:

(A) any unpaid quarterly assessment; and

(B) any unpaid penalty assessment.

(c) Upon making a record of its actions, and upon reasonable cause shown, the division may waive, reduce, or compromise any of the penalties imposed under this part.

Section 42. Section **26-36d-207** is enacted to read:

26-36d-207. Hospital Provider Assessment Expendable Revenue Fund.

(1) There is created an expendable special revenue fund known as the "Hospital Provider Assessment Expendable Revenue Fund."

(2) The fund shall consist of:

(a) the assessments collected by the department under this chapter;

(b) any interest and penalties levied with the administration of this chapter; and

(c) any other funds received as donations for the fund and appropriations from other sources.

(3) Money in the fund shall be used:

(a) to support capitated rates consistent with Subsection [26-36d-203\(1\)\(d\)](#) for accountable care organizations; and

(b) to reimburse money collected by the division from a hospital through a mistake

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1654 made under this chapter.

1655 Section 43. Section **26-36d-208** is enacted to read:

1656 **26-36d-208. Repeal of assessment.**

1657 (1) The repeal of the assessment imposed by this chapter shall occur upon the
1658 certification by the executive director of the department that the sooner of the following has
1659 occurred:

1660 (a) the effective date of any action by Congress that would disqualify the assessment
1661 imposed by this chapter from counting toward state Medicaid funds available to be used to
1662 determine the federal financial participation;

1663 (b) the effective date of any decision, enactment, or other determination by the
1664 Legislature or by any court, officer, department, or agency of the state, or of the federal
1665 government that has the effect of:

1666 (i) disqualifying the assessment from counting towards state Medicaid funds available
1667 to be used to determine federal financial participation for Medicaid matching funds; or

1668 (ii) creating for any reason a failure of the state to use the assessments for the Medicaid
1669 program as described in this chapter;

1670 (c) the effective date of:

1671 (i) an appropriation for any state fiscal year from the General Fund for hospital
1672 payments under the state Medicaid program that is less than the amount appropriated for state
1673 fiscal year 2012;

1674 (ii) the annual revenues of the state General Fund budget return to the level that was
1675 appropriated for fiscal year 2008;

1676 (iii) a division change in rules that reduces any of the following below July 1, 2011
1677 payments:

1678 (A) aggregate hospital inpatient payments;

1679 (B) adjustment payment rates; or

1680 (C) any cost settlement protocol; or

1681 (iv) a division change in rules that reduces the aggregate outpatient payments below

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1682 July 1, 2011 payments; and

1683 (d) the sunset of this chapter in accordance with Section [63I-1-226](#).

1684 (2) If the assessment is repealed under Subsection (1), money in the fund that was
 1685 derived from assessments imposed by this chapter, before the determination made under
 1686 Subsection (1), shall be disbursed under Section [26-36d-205](#) to the extent federal matching is
 1687 not reduced due to the impermissibility of the assessments. Any funds remaining in the special
 1688 revenue fund shall be refunded to the hospitals in proportion to the amount paid by each
 1689 hospital.

1690 Section 44. Section **26-61-202** is amended to read:

1691 **26-61-202. Cannabinoid Product Board -- Duties.**

1692 (1) The board shall review any available scientific research related to the human use of
 1693 cannabis, a cannabinoid product, or an expanded cannabinoid product that:

- 1694 (a) was conducted under a study approved by an IRB; or
- 1695 (b) was conducted or approved by the federal government.

1696 (2) Based on the research described in Subsection (1), the board shall evaluate the
 1697 safety and efficacy of cannabis, cannabinoid products, and expanded cannabinoid products,
 1698 including:

1699 (a) medical conditions that respond to cannabis, cannabinoid products, and expanded
 1700 cannabinoid products;

1701 (b) cannabis and cannabinoid dosage amounts and medical dosage forms; [and]

1702 (c) interaction of cannabis, cannabinoid products, and expanded cannabinoid products
 1703 with other treatments[-]; and

1704 (d) contraindications, adverse reactions, and potential side effects from use of cannabis,
 1705 cannabinoid products, and expanded cannabinoid products.

1706 (3) Based on the board's evaluation under Subsection (2), the board shall develop
 1707 guidelines for treatment with cannabis, a cannabinoid product, and an expanded cannabinoid
 1708 product that include:

1709 (a) a list of medical conditions, if any, that the board determines are appropriate for

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1710 treatment with cannabis, a cannabis product, a cannabinoid product, or an expanded
 1711 cannabinoid product[.];

1712 (b) a list of contraindications, side effects, and adverse reactions that are associated
 1713 with use of cannabis, cannabinoid products, or expanded cannabinoid products; and

1714 (c) a list of potential drug-drug interactions between medications that the United States
 1715 Food and Drug Administration has approved and cannabis, cannabinoid products, and
 1716 expanded cannabinoid products.

1717 (4) The board shall submit the guidelines described in Subsection (3) to:

1718 (a) the director of the Division of Occupational and Professional Licensing; and

1719 (b) the Health and Human Services Interim Committee.

1720 (5) The board shall report the board's findings before November 1 of each year to the
 1721 Health and Human Services Interim Committee.

1722 (6) Guidelines [~~developed pursuant to~~] that the board develops under this section may
 1723 not limit the availability of cannabis, cannabinoid products, or expanded cannabinoid products
 1724 permitted [~~pursuant to~~] under Title 4, Chapter [~~41b~~] 41a, Cannabis Production [~~Establishment~~]
 1725 Establishments, or Title 26, Chapter [~~60b~~] 61a, Utah Medical Cannabis Act.

1726 Section 45. Section **26-61a-101**, which is renumbered from Section 26-60b-101 is
 1727 renumbered and amended to read:

1728 **CHAPTER 61a. UTAH MEDICAL CANNABIS ACT.**

1729 **Part 1. General Provisions.**

1730 [~~26-60b-101~~]. **26-61a-101. Title.**

1731 This chapter is known as "Utah Medical Cannabis Act."

1732 Section 46. Section **26-61a-102**, which is renumbered from Section 26-60b-102 is
 1733 renumbered and amended to read:

1734 [~~26-60b-102~~]. **26-61a-102. Definitions.**

1735 As used in this chapter:

1736 (1) "Blister" means a plastic cavity or pocket used to contain no more than a single
 1737 dose of cannabis or a cannabis product in a blister pack.

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1738 (2) "Blister pack" means a plastic, paper, or foil package with multiple blisters each
 1739 containing no more than a single dose of cannabis or a cannabis product.

1740 ~~[(1)]~~ (3) "Cannabis" means [the same as that term is defined in Section 58-37-3.9]
 1741 marijuana.

1742 ~~[(2)]~~ (4) "Cannabis cultivation facility" means the same as that term is defined in
 1743 Section [4-41b-102] 4-41a-102.

1744 ~~[(3)]~~ "Cannabis dispensary" means a person that:

1745 ~~[(a) acquires or intends to acquire cannabis or a cannabis product from a cannabis~~
 1746 ~~production establishment and acquires or intends to acquire a medical cannabis device;]~~

1747 ~~[(b) possesses cannabis, a cannabis product, or a medical cannabis device; and]~~

1748 ~~[(c) sells or intends to sell cannabis, a cannabis product, or a medical cannabis device.]~~

1749 ~~[(4) "Cannabis dispensary agent" means an owner, officer, director, board member,~~
 1750 ~~employee, or volunteer of a cannabis dispensary.]~~

1751 ~~[(5) "Cannabis dispensary agent registration card" means a registration card issued by~~
 1752 ~~the department that authorizes an individual to act as a cannabis dispensary agent.]~~

1753 ~~[(6)]~~ (5) "Cannabis processing facility" means the same as that term is defined in
 1754 Section [4-41b-102] 4-41a-102.

1755 ~~[(7)]~~ (6) "Cannabis product" means [the same as that term is defined in Section
 1756 58-37-3.9:] a product that:

1757 (a) is intended for human use; and

1758 (b) contains cannabis or tetrahydrocannabinol.

1759 ~~[(8)]~~ (7) "Cannabis production establishment agent" means the same as that term is
 1760 defined in Section [4-41b-102] 4-41a-102.

1761 ~~[(9)]~~ (8) "Cannabis production establishment agent registration card" means the same
 1762 as that term is defined in Section [4-41b-102] 4-41a-102.

1763 ~~[(10)]~~ (9) "Community location" means a public or private school, a church, a public
 1764 library, a public playground, or a public park.

1765 (10) "Department" means the Department of Health.

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1766 (11) "Designated caregiver" means an individual:

1767 (a) whom ~~[a patient]~~ an individual with a medical cannabis patient card or a medical

1768 cannabis guardian card designates as the patient's caregiver; and

1769 (b) who registers with the department under Section ~~[26-60b-202]~~ 26-61a-202.

1770 (12) "Dosing parameters" means quantity, routes, and frequency of administration for a

1771 recommended treatment of cannabis in a medicinal dosage form or a cannabis product in a

1772 medicinal dosage form.

1773 ~~[(12)]~~ (13) "Independent cannabis testing laboratory" means the same as that term is

1774 defined in Section ~~[4-41b-102]~~ 4-41a-102.

1775 ~~[(13)]~~ (14) "Inventory control system" means the system described in Section

1776 ~~[4-41b-103]~~ 4-41a-103.

1777 (15) "Local health department" means the same as that term is defined in Section

1778 26A-1-102.

1779 (16) "Local health department distribution agent" means an agent designated and

1780 registered to distribute state central fill shipments under Sections 26-61a-606 and 26-61a-607.

1781 (17) "Marijuana" means the same as that term is defined in Section 58-37-2.

1782 (18) "Medical cannabis" means cannabis in a medicinal dosage form or a cannabis

1783 product in a medicinal dosage form.

1784 ~~[(14)]~~ (19) "Medical cannabis card" means a medical cannabis patient card, a medical

1785 cannabis guardian card, or a medical cannabis caregiver card.

1786 (20) "Medical cannabis cardholder" means a holder of a medical cannabis card.

1787 (21) "Medical cannabis caregiver card" means an official card ~~[issued by]~~ that:

1788 (a) the department issues to an individual ~~[with a qualifying illness, or the individual's]~~

1789 whom a medical cannabis patient cardholder or a medical cannabis guardian cardholder

1790 designates as a designated caregiver ~~[under this chapter, that]; and~~

1791 (b) is connected to the electronic verification system.

1792 ~~[(15)]~~ (22) (a) "Medical cannabis device" means ~~[the same as that term is defined in~~

1793 Section 58-37-3.9.] a device that an individual uses to ingest cannabis in a medicinal dosage

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1794 form or a cannabis product in a medicinal dosage form.

1795 (b) "Medical cannabis device" does not include a device that:

1796 (i) facilitates cannabis combustion; or

1797 (ii) an individual uses to ingest substances other than cannabis.

1798 (23) "Medical cannabis guardian card" means an official card that:

1799 (a) the department issues to the parent or legal guardian of a minor with a qualifying

1800 condition; and

1801 (b) is connected to the electronic verification system.

1802 (24) "Medical cannabis patient card" means an official card that:

1803 (a) the department issues to an individual with a qualifying condition; and

1804 (b) is connected to the electronic verification system.

1805 (25) "Medical cannabis pharmacy" means a person that:

1806 (a) (i) acquires or intends to acquire:

1807 (A) cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage

1808 form from a cannabis processing facility; or

1809 (B) a medical cannabis device; or

1810 (ii) possesses cannabis in a medicinal dosage form, a cannabis product in a medicinal

1811 dosage form, or a medical cannabis device; and

1812 (b) sells or intends to sell cannabis in a medicinal dosage form, a cannabis product in a

1813 medicinal dosage form, or a medical cannabis device to a medical cannabis cardholder.

1814 (26) "Medical cannabis pharmacy agent" means an individual who:

1815 (a) is an employee of a medical cannabis pharmacy; and

1816 (b) who holds a valid medical cannabis pharmacy agent registration card.

1817 (27) "Medical cannabis pharmacy agent registration card" means a registration card

1818 issued by the department that authorizes an individual to act as a medical cannabis pharmacy

1819 agent.

1820 (28) "Medical cannabis treatment" means cannabis in a medicinal dosage form, a

1821 cannabis product in a medicinal dosage form, or a medical cannabis device.

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1822 [(16) "Medical Cannabis Restricted Account" means the account created in Section
 1823 26-60b-109;]

1824 (29) (a) "Medicinal dosage form" means:

1825 (i) for processed medical cannabis or a medical cannabis product, the following in
 1826 single dosage form with a specific and consistent cannabinoid content:

1827 (A) a tablet;

1828 (B) a capsule;

1829 (C) a concentrated oil;

1830 (D) a liquid suspension;

1831 (E) a topical preparation;

1832 (F) a transdermal preparation;

1833 (G) a sublingual preparation;

1834 (H) a gelatinous cube, gelatinous rectangular cuboid, or lozenge in a cube or
 1835 rectangular cuboid shape; or

1836 (I) for use only after the individual's qualifying condition has failed to substantially
 1837 respond to at least two other forms described in this Subsection (29)(a)(i), a resin or wax;

1838 (ii) for unprocessed cannabis flower, a blister pack, with each individual blister:

1839 (A) containing a specific and consistent weight that does not exceed one gram and that
 1840 varies by no more than 10% from the stated weight; and

1841 (B) labeled with a barcode that provides information connected to an inventory control
 1842 system and the individual blister's content and weight; and

1843 (iii) a form measured in grams, milligrams, or milliliters.

1844 (b) "Medicinal dosage form" includes a portion of unprocessed cannabis flower that:

1845 (i) the medical cannabis cardholder has recently removed from the blister pack
 1846 described in Subsection (29)(a)(ii) for use; and

1847 (ii) does not exceed the quantity described in Subsection (29)(a)(ii).

1848 (c) "Medicinal dosage form" does not include:

1849 (i) any unprocessed cannabis flower outside of the blister pack, except as provided in

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1850 Subsection (29)(b); or

1851 (ii) a process of vaporizing and inhaling concentrated cannabis by placing the cannabis
 1852 on a nail or other metal object that is heated by a flame, including a blowtorch.

1853 (30) "Pharmacy medical provider" means the medical provider required to be on site at
 1854 a medical cannabis pharmacy under Section [26-61a-403](#).

1855 (31) "Provisional patient card" means a card that:

1856 (a) the department issues to a minor with a qualifying condition for whom:

1857 (i) a qualified medical provider has recommended a medical cannabis treatment; and

1858 (ii) the department issues a medical cannabis guardian card to the minor's parent or
 1859 legal guardian; and

1860 (b) is connected to the electronic verification system.

1861 ~~[(17)]~~ (32) ~~["Physician"]~~ "Qualified medical provider" means an individual who is
 1862 qualified to recommend treatment with cannabis in a medicinal dosage form under Section
 1863 ~~[26-60b-107]~~ [26-61a-106](#).

1864 (33) "Qualified Distribution Enterprise Fund" means the enterprise fund created in
 1865 Section [26-61a-110](#).

1866 (34) "Qualified Patient Enterprise Fund" means the enterprise fund created in Section
 1867 [26-61a-109](#).

1868 ~~[(18)]~~ (35) "Qualifying ~~[illness]~~ condition" means a condition described in Section
 1869 ~~[26-60b-105]~~ [26-61a-104](#).

1870 (36) "State central fill agent" means an employee of the state central fill medical
 1871 cannabis pharmacy that the department registers in accordance with Section [26-61a-602](#).

1872 (37) "State central fill medical cannabis pharmacy" means the central fill pharmacy that
 1873 the department creates in accordance with Section [26-61a-601](#).

1874 (38) "State central fill medical provider" means a physician or pharmacist that the state
 1875 central fill medical cannabis pharmacy employs to consult with medical cannabis cardholders
 1876 in accordance with Section [26-61a-601](#).

1877 (39) "State central fill shipment" means a shipment of cannabis in a medicinal dosage

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1878 form, cannabis product in a medicinal dosage form, or a medical cannabis device that the state
 1879 central fill medical cannabis pharmacy prepares and ships for distribution to a medical cannabis
 1880 cardholder in a local health department.

1881 ~~[(19)]~~ (40) "State electronic verification system" means the system described in Section
 1882 ~~[26-60b-103]~~ 26-61a-103.

1883 Section 47. Section **26-61a-103**, which is renumbered from Section 26-60b-103 is
 1884 renumbered and amended to read:

1885 ~~[26-60b-103]~~. **26-61a-103. Electronic verification system.**

1886 (1) The Department of Agriculture and Food, the ~~[Department of Health]~~ department,
 1887 the Department of Public Safety, and the Department of Technology Services shall:

1888 (a) enter into a memorandum of understanding in order to determine the function and
 1889 operation of ~~[an]~~ the state electronic verification system in accordance with Subsection (2);

1890 (b) coordinate with the Division of Purchasing, under Title 63G, Chapter 6a, Utah
 1891 Procurement Code, to develop a request for proposals for a third-party provider to develop and
 1892 maintain ~~[an]~~ the state electronic verification system in coordination with the Department of
 1893 Technology Services; and

1894 (c) select a third-party provider ~~[described in]~~ who meets the requirements contained in
 1895 the request for proposals issued under Subsection (1)(b).

1896 (2) The Department of Agriculture and Food, the department, the Department of Public
 1897 Safety, and the Department of Technology Services shall ensure that, on or before March 1,
 1898 2020, the state electronic verification system described in Subsection (1) ~~[shall]~~:

1899 (a) ~~[allow]~~ allows an individual, with the individual's ~~[physician]~~ qualified medical
 1900 provider in the ~~[physician's]~~ qualified medical provider's office, to apply for a medical cannabis
 1901 patient card or, if applicable, a medical cannabis guardian card;

1902 (b) allows an individual to apply to renew a medical cannabis patient card or a medical
 1903 cannabis guardian card in accordance with Section 26-61a-201;

1904 (c) allows a qualified medical provider to:

1905 (i) access dispensing and card status information regarding a patient:

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1906 (A) with whom the qualified medical provider has a provider-patient relationship; and
 1907 (B) for whom the qualified medical provider has recommended or is considering
 1908 recommending a medical cannabis card;
 1909 [~~(b)~~] (ii) [~~allow a physician to~~] electronically recommend, during a visit with a patient,
 1910 treatment with cannabis in a medicinal dosage form or a cannabis product in a medicinal
 1911 dosage form and optionally recommend dosing parameters;
 1912 (iii) electronically renew a recommendation to a medical cannabis patient cardholder or
 1913 medical cannabis guardian cardholder;
 1914 (A) for the qualified medical provider who originally recommended a medical cannabis
 1915 treatment, as that term is defined in Section 26-61a-102, using telehealth services; or
 1916 (B) for a qualified medical provider who did not originally recommend the medical
 1917 cannabis treatment, during a face-to-face visit with a patient; and
 1918 (iv) at the request of a medical cannabis cardholder, initiate a state central fill shipment
 1919 in accordance with Section 26-61a-603;
 1920 [~~(c)~~] (d) [~~connect~~] connects with:
 1921 (i) an inventory control system [~~used by a cannabis dispensary~~] that a medical cannabis
 1922 pharmacy and the state central fill medical cannabis pharmacy use to track[;] in real time[;] and
 1923 [~~to~~] archive [~~for no more than 60 days, purchase history~~] purchases of any cannabis [~~or a~~] in a
 1924 medicinal dosage form, cannabis product [~~by a~~] in a medicinal dosage form, or medical
 1925 cannabis [~~card holder~~] device, including:
 1926 (A) the time and date of [~~the~~] each purchase[;];
 1927 (B) the quantity and type of cannabis [~~or~~], cannabis product, or medical cannabis
 1928 device purchased[; and];
 1929 (C) any cannabis production establishment [~~and cannabis dispensary~~], any medical
 1930 cannabis pharmacy, or the state central fill medical cannabis pharmacy associated with the
 1931 cannabis [~~or~~], cannabis product[;], or medical cannabis device; and
 1932 (D) the personally identifiable information of the medical cannabis cardholder who
 1933 made the purchase; and

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1934 (ii) any commercially available inventory control system that a cannabis production
 1935 establishment utilizes in accordance with Section 4-41a-103 to use data that the Department of
 1936 Agriculture and Food requires by rule, in accordance with Title 63G, Chapter 3, Utah
 1937 Administrative Rulemaking Act, from the inventory tracking system that a licensee uses to
 1938 track and confirm compliance;

1939 ~~[(d)]~~ (e) ~~[provide]~~ provides access to:

1940 (i) the ~~[Department of Health and the Department of Agriculture and Food]~~ department
 1941 to the extent necessary to carry out the ~~[Department of Health's and the Department of~~
 1942 ~~Agriculture and Food's]~~ department's functions and responsibilities under this chapter ~~[and];~~

1943 (ii) the Department of Agriculture and Food to the extent necessary to carry out the
 1944 functions and responsibilities of the Department of Agriculture and Food under Title 4, Chapter
 1945 ~~[41b]~~ 41a, Cannabis Production ~~[Establishment;]~~ Establishments; and

1946 (iii) the Division of Occupational and Professional Licensing to the extent necessary to
 1947 carry functions and responsibilities related to the participation of the following in the
 1948 recommendation and dispensing of medical cannabis:

1949 (A) a pharmacist licensed under Title 58, Chapter 17b, Pharmacy Practice Act;

1950 (B) an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse
 1951 Practice Act;

1952 (C) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or
 1953 Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; or

1954 (D) a physician assistant licensed under Title 58, Chapter 70a, Physician Assistant Act;

1955 (f) provides access to and interaction with the state central fill medical cannabis
 1956 pharmacy, state central fill agents, and local health department distribution agents, to facilitate
 1957 the state central fill shipment process;

1958 ~~[(e)]~~ (g) ~~[provide]~~ provides access to state or local law enforcement;

1959 (i) during a traffic stop for the purpose of determining if the individual subject to the
 1960 traffic stop is ~~[complying]~~ in compliance with state medical cannabis law~~;~~; or

1961 (ii) after obtaining a warrant; and

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1962 ~~[(f)]~~ (h) [create] creates a record each time a person accesses the database that
 1963 identifies the person who ~~[accessed]~~ accesses the database and the individual whose records
 1964 ~~[are accessed; and]~~ the person accesses.

1965 ~~[(g) (9) be operational no later than March 1, 2020.]~~

1966 (3) The ~~[Department of Health]~~ department may release de-identified data ~~[collected~~
 1967 ~~by]~~ that the system collects for the purpose of:

1968 (a) conducting medical research; and [for]

1969 (b) providing the report required by Section [26-60b-602] 26-61a-703.

1970 (4) The department shall make rules, in accordance with Title 63G, Chapter 3, Utah
 1971 Administrative Rulemaking Act, to establish:

1972 (a) the limitations on access to the data in the state electronic verification system as
 1973 described in this section; and

1974 (b) standards and procedures to ensure accurate identification of an individual
 1975 requesting information or receiving information in this section.

1976 (5) (a) Any person who knowingly and intentionally releases any information in the
 1977 state electronic verification system in violation of this section is guilty of a third degree felony.

1978 (b) Any person who negligently or recklessly releases any information in the state
 1979 electronic verification system in violation of this section is guilty of a class C misdemeanor.

1980 (6) (a) Any person who obtains or attempts to obtain information from the state
 1981 electronic verification system by misrepresentation or fraud is guilty of a third degree felony.

1982 (b) Any person who obtains or attempts to obtain information from the state electronic
 1983 verification system for a purpose other than a purpose this chapter authorizes is guilty of a third
 1984 degree felony.

1985 (7) (a) Except as provided in Subsection (7)(e), a person may not knowingly and
 1986 intentionally use, release, publish, or otherwise make available to any other person information
 1987 obtained from the state electronic verification system for any purpose other than a purpose
 1988 specified in this section.

1989 (b) Each separate violation of this Subsection (7) is:

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1990 (i) a third degree felony; and

1991 (ii) subject to a civil penalty not to exceed \$5,000.

1992 (c) The department shall determine a civil violation of this Subsection (7) in

1993 accordance with Title 63G, Chapter 4, Administrative Procedures Act.

1994 (d) Civil penalties assessed under this Subsection (7) shall be deposited into the

1995 General Fund.

1996 (e) This Subsection (7) does not prohibit a person who obtains information from the

1997 state electronic verification system under Subsection (2)(a), (c), or (f) from:

1998 (i) including the information in the person's medical chart or file for access by a person

1999 authorized to review the medical chart or file;

2000 (ii) providing the information to a person in accordance with the requirements of the

2001 Health Insurance Portability and Accountability Act of 1996; or

2002 (iii) discussing or sharing that information on the patient with the patient.

2003 Section 48. Section **26-61a-104**, which is renumbered from Section 26-60b-105 is

2004 renumbered and amended to read:

2005 **[26-60b-105]. 26-61a-104. Qualifying condition.**

2006 (1) By designating a particular condition under Subsection (2) for which the use of

2007 medical cannabis to treat symptoms is decriminalized, the Legislature does not conclusively

2008 state that:

2009 (a) current scientific evidence clearly supports the efficacy of a medical cannabis

2010 treatment for the condition; or

2011 (b) a medical cannabis treatment will treat, cure, or positively affect the condition.

2012 [(1)] (2) For the purposes of this chapter, each of the following conditions [are

2013 considered] is a qualifying [illness] condition:

2014 (a) HIV[;] or acquired immune deficiency syndrome [or an autoimmune disorder];

2015 (b) Alzheimer's disease;

2016 (c) amyotrophic lateral sclerosis;

2017 (d) cancer[;];

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2018 (e) cachexia[, or a condition manifest by physical wasting,];
 2019 (f) persistent nausea[, or malnutrition associated with chronic disease] that is not
 2020 significantly responsive to traditional treatment, except for nausea related to:
 2021 (i) pregnancy;
 2022 (ii) cannabis-induced cyclical vomiting syndrome; or
 2023 (iii) cannabinoid hyperemesis syndrome;
 2024 [(e)] (g) Crohn's disease[;] or ulcerative colitis[, or a similar gastrointestinal disorder];
 2025 [(f)] (h) epilepsy or [a similar condition that causes] debilitating seizures;
 2026 [(g)] (i) multiple sclerosis or [a similar condition that causes] persistent and
 2027 debilitating muscle spasms;
 2028 [(h)] (j) post-traumatic stress disorder[;] that is being treated and monitored by a
 2029 licensed mental health therapist, as that term is defined in Section 58-60-102, and that:
 2030 (i) has been diagnosed by a healthcare provider or mental health provider employed or
 2031 contracted by the United States Veterans Administration, evidenced by copies of medical
 2032 records from the Veterans Administration that are included as part of the qualified medical
 2033 provider's pre-treatment assessment and medical record documentation; or
 2034 (ii) has been diagnosed or confirmed, through face-to-face or telehealth evaluation of
 2035 the patient, by a provider who is:
 2036 (A) a licensed board-eligible or board-certified psychiatrist;
 2037 (B) a licensed psychologist with a doctorate-level degree;
 2038 (C) a licensed clinical social worker with a doctorate-level degree; or
 2039 (D) a licensed advanced practice registered nurse who is qualified to practice within
 2040 the psychiatric mental health nursing speciality and who has completed the clinical practice
 2041 requirements in psychiatric mental health nursing, including in psychotherapy, in accordance
 2042 with Subsection 58-31b-302(4)(g);
 2043 [(i)] (k) autism;
 2044 (l) a terminal illness when the patient's remaining life expectancy is less than six
 2045 months;

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2046 (m) a condition resulting in the individual receiving hospice care;
 2047 [(j)] (n) a rare condition or disease that;
 2048 (i) affects less than 200,000 [persons] individuals in the United States, as defined in
 2049 Section 526 of the Federal Food, Drug, and Cosmetic Act; and
 2050 (ii) is not adequately managed despite treatment attempts using:
 2051 (A) conventional medications other than opioids or opiates; or
 2052 (B) physical interventions;
 2053 [(k)] (o) [chronic or debilitating] pain [in an individual, if] lasting longer than two
 2054 weeks that is not adequately managed, in the qualified medical provider's opinion, despite
 2055 treatment attempts using:
 2056 (i) [a physician determines that the individual is at risk of becoming chemically
 2057 dependent on, or overdosing on, opiate-based pain medication] conventional medications other
 2058 than opioids or opiates; or
 2059 (ii) [a physician determines that the individual is allergic to opiates or is otherwise
 2060 medically unable to use opiates:] physical interventions; and
 2061 [(2)] (p) [In addition to the conditions described in Subsection (1),] a condition
 2062 [approved] that the compassionate use board approves under Section [26-60b-106, in]
 2063 26-61a-105, on an individual, [on a] case-by-case basis[, is considered a qualifying illness for
 2064 the purposes of this chapter].
 2065 Section 49. Section **26-61a-105**, which is renumbered from Section 26-60b-106 is
 2066 renumbered and amended to read:
 2067 **[26-60b-106]. 26-61a-105. Compassionate use board.**
 2068 (1) (a) The department shall establish a [Compassionate Use Board] compassionate use
 2069 board consisting of:
 2070 [(a)] (i) [five physicians] seven qualified medical providers that the executive director
 2071 appoints:
 2072 (A) who are knowledgeable about the medicinal use of cannabis [and];
 2073 (B) who are physicians licensed under Title 58, Chapter 67, Utah Medical Practice Act,

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or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; and

(C) ~~whom [certified by]~~ the appropriate board certifies in ~~[one of]~~ the ~~[following specialties:]~~ specialty of neurology, pain medicine and pain management, medical oncology, psychiatry, infectious disease, internal medicine, pediatrics, ~~[and]~~ or gastroenterology; and

~~[(b)]~~ (ii) as a nonvoting member and the chair of the board, the executive director ~~[of the Department of Health]~~ or the director's designee ~~[as a non-voting member]~~.

(b) In appointing the seven qualified medical providers described in Subsection (1)(a), the executive director shall ensure that at least two have a board certification in pediatrics.

(2) (a) ~~[Two of]~~ Of the members of the board that the executive director first [appointed] appoints:

(i) three shall serve ~~[for a]~~ an initial term of ~~[three]~~ two years; and ~~[two of]~~

(ii) the remaining members ~~[of the board first appointed]~~ shall serve ~~[for a]~~ an initial term of four years.

(b) After ~~[the first members' terms expire, members of the board shall serve for a]~~ an initial term ~~[of]~~ described in Subsection (2)(a) expires:

(i) each term is four years; and ~~[shall be]~~

(ii) each board member is eligible for reappointment.

(c) ~~[Any]~~ A member of the board may serve until a successor is appointed.

~~[(d) The director of the Department of Health or the director's designee shall serve as the chair of the board.]~~

(3) ~~[A]~~ Four members constitute a quorum of the ~~[Compassionate Use Board shall consist of three members]~~ compassionate use board.

(4) A member of the board may ~~[not]~~ receive:

(a) compensation or benefits for the member's service~~[, but may receive];~~ and

(b) per diem and travel expenses in accordance with Section 63A-3-106, Section 63A-3-107, and rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(5) The ~~[Compassionate Use Board]~~ compassionate use board shall:

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2102 (a) review and recommend ~~[to the]~~ for department approval ~~[for]~~ an individual
 2103 described in Subsection 26-61a-201(2)(a), a minor described in Subsection 26-61a-201(2)(c),
 2104 or an individual who is not otherwise qualified to receive a medical cannabis card to obtain a
 2105 medical cannabis card for compassionate use if:

2106 (i) for an individual who is not otherwise qualified to receive a medical cannabis card,
 2107 the individual's qualified medical provider is actively treating the individual ~~[offers, in the~~
 2108 ~~board's discretion, satisfactory evidence that the individual suffers from a]~~ for an intractable
 2109 condition that:

2110 (A) substantially impairs the individual's quality of life ~~[and is intractable]; and~~

2111 (B) has not, in the qualified medical provider's professional opinion, adequately
 2112 responded to conventional treatments;

2113 (ii) the qualified medical provider:

2114 (A) recommends that the individual or minor be allowed to use medical cannabis; and

2115 (B) provides a letter, relevant treatment history, and notes or copies of progress notes
 2116 describing relevant treatment history including rationale for considering the use of medical
 2117 cannabis; and

2118 ~~[(ii)]~~ (iii) the board determines that:

2119 (A) the recommendation of the individual's qualified medical provider is justified; and

2120 (B) based on available information, it ~~[is]~~ may be in the best ~~[interest]~~ interests of the
 2121 ~~[patient]~~ individual to allow the ~~[-compassionate]~~ use of medical cannabis;

2122 (b) unless no petitions are pending:

2123 (i) meet to receive or review compassionate use petitions at least quarterly ~~[-unless no~~
 2124 ~~petitions are pending, or]; and~~

2125 (ii) ~~[as often as necessary]~~ if there are more petitions than the board can receive or
 2126 review during the board's regular schedule, as often as necessary;

2127 (c) complete a review of each petition and recommend to the department approval or
 2128 denial of the applicant for qualification for a medical cannabis card within 90 days ~~[of receipt]~~
 2129 after the day on which the board received the petition; and

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2130 (d) report, before November 1 of each year, to the Health and Human Services Interim
 2131 Committee[;];

2132 (i) the number of compassionate use ~~[approvals]~~ recommendations the board issued
 2133 during the past year; and

2134 (ii) the types of conditions for which the board approved compassionate use.

2135 (6) (a) (i) The department shall review any compassionate use ~~[approved by]~~ for which
 2136 the board recommends approval under ~~[this section]~~ Subsection (5)(c) to determine ~~[if]~~
 2137 whether the board properly exercised the board's discretion under this section.

2138 ~~[(7)]~~ (ii) If the department determines that the board properly ~~[approved an individual~~
 2139 ~~for compassionate use under this section]~~ exercised the board's discretion in recommending
 2140 approval under Subsection (5)(c), the department shall:

2141 (A) issue ~~[a]~~ the relevant medical cannabis card[-]; and

2142 (B) provide for the renewal of the medical cannabis card in accordance with the
 2143 recommendation of the qualified medical provider described in Subsection (5)(a).

2144 (b) (i) If the board recommends denial under Subsection (5)(c), the individual seeking
 2145 to obtain a medical cannabis card may petition the department to review the board's decision.

2146 (ii) If the department determines that the board's recommendation for denial under
 2147 Subsection (5)(c) was arbitrary or capricious:

2148 (A) the department shall notify the board of the department's determination; and

2149 (B) the board shall reconsider the board's refusal to recommend approval under this
 2150 section.

2151 (c) In reviewing the board's recommendation for approval or denial under Subsection
 2152 (5)(c) in accordance with this Subsection (6), the department shall presume the board properly
 2153 exercised the board's discretion unless the department determines that the board's
 2154 recommendation was arbitrary or capricious.

2155 ~~[(8)]~~ (7) Any individually identifiable health information contained in a petition
 2156 [received] that the board or department receives under this section ~~[shall be]~~ is a protected
 2157 record in accordance with Title 63G, Chapter 2, Government Records Access and Management

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2158 Act.

2159 ~~[(9)] (8) The [Compassionate Use Board may recommend] compassionate use board~~
 2160 ~~shall annually report the board's activity to the [Health and Human Services Interim~~
 2161 ~~Committee.]~~

2162 ~~[(a) a condition to designate as a qualifying illness under Section 26-60b-105; or]~~

2163 ~~[(b) a condition to remove as a qualifying illness under Section 26-60b-105]~~

2164 Cannabinoid Product Board created in Section 26-61-201.

2165 Section 50. Section **26-61a-106**, which is renumbered from Section 26-60b-107 is
 2166 renumbered and amended to read:

2167 ~~[26-60b-107].~~ **26-61a-106. Qualified medical provider registration --**

2168 **Continuing education -- Treatment recommendation.**

2169 (1) ~~[For the purposes of this chapter, a physician means an]~~ An individual~~[, other than~~
 2170 ~~a veterinarian, who]~~ may not recommend a medical cannabis treatment unless the department
 2171 registers the individual as a qualified medical provider in accordance with this section.

2172 (2) (a) The department shall, within 15 days after the day on which the department
 2173 receives an application from an individual, register and issue a qualified medical provider
 2174 registration card to the individual if the individual:

2175 (i) provides to the department the individual's name and address;

2176 (ii) provides to the department a report detailing the individual's completion of the
 2177 applicable continuing education requirement described in Subsection (3);

2178 (iii) provides to the department evidence that the individual:

2179 (A) has the authority to write a prescription;

2180 (B) is licensed to prescribe a controlled substance under Title 58, Chapter 37, Utah
 2181 Controlled Substances Act; and [who]

2182 (C) possesses the authority, in accordance with the individual's scope of practice, to
 2183 prescribe a Schedule II controlled [substances.] substance;

2184 (iv) provides to the department evidence that the individual is:

2185 (A) an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse

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2186 Practice Act;

2187 (B) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or
2188 Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; or

2189 (C) a physician assistant licensed under Title 58, Chapter 70a, Physician Assistant Act,
2190 whose declaration of services agreement, as that term is defined in Section 58-70a-102,
2191 includes the recommending of medical cannabis, and whose supervising physician is a
2192 qualified medical provider; and

2193 (v) pays the department a fee in an amount that:

2194 (A) the department sets, in accordance with Section 63J-1-504; and

2195 (B) does not exceed \$300 for an initial registration.

2196 (b) The department may not register an individual as a qualified medical provider if the
2197 individual is:

2198 (i) a pharmacy medical provider or a state central fill medical provider; or

2199 (ii) an owner, officer, director, board member, employee, or agent of a cannabis
2200 production establishment or a medical cannabis pharmacy.

2201 (3) (a) An individual shall complete the continuing education described in this
2202 Subsection (3) in the following amounts:

2203 (i) for an individual as a condition precedent to registration, four hours; and

2204 (ii) for a qualified medical provider as a condition precedent to renewal, four hours
2205 every two years.

2206 (b) In accordance with Subsection (3)(a), a qualified medical provider shall:

2207 (i) complete continuing education:

2208 (A) regarding the topics described in Subsection (3)(d); and

2209 (B) offered by the department under Subsection (3)(c) or an accredited or approved
2210 continuing education provider that the department recognizes as offering continuing education
2211 appropriate for the recommendation of cannabis to patients; and

2212 (ii) make a continuing education report to the department in accordance with a process
2213 that the department establishes by rule, in accordance with Title 63G, Chapter 3, Utah

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2214 Administrative Rulemaking Act, and in collaboration with the Division of Occupational and
 2215 Professional Licensing and:

2216 (A) for an advanced practice registered nurse licensed under Title 58, Chapter 31b,
 2217 Nurse Practice Act, the Board of Nursing;

2218 (B) for a qualified medical provider licensed under Title 58, Chapter 67, Utah Medical
 2219 Practice Act, the Physicians Licensing Board;

2220 (C) for a qualified medical provider licensed under Title 58, Chapter 68, Utah
 2221 Osteopathic Medical Practice Act, the Osteopathic Physician and Surgeon's Licensing Board;
 2222 and

2223 (D) for a physician assistant licensed under Title 58, Chapter 70a, Physician Assistant
 2224 Act, the Physician Assistant Licensing Board.

2225 (c) The department may, in consultation with the Division of Occupational and
 2226 Professional Licensing, develop the continuing education described in this Subsection (3).

2227 (d) The continuing education described in this Subsection (3) may discuss:

2228 (i) the provisions of this chapter;

2229 (ii) general information about medical cannabis under federal and state law;

2230 (iii) the latest scientific research on the endocannabinoid system and medical cannabis,
 2231 including risks and benefits;

2232 (iv) recommendations for medical cannabis as it relates to the continuing care of a
 2233 patient in pain management, risk management, potential addiction, or palliative care; and

2234 (v) best practices for recommending the form and dosage of medical cannabis products
 2235 based on the qualifying condition underlying a medical cannabis recommendation.

2236 ~~[(2) A physician may recommend cannabis if the physician recommends cannabis to no~~
 2237 ~~more than 20% of the physician's patients at any given time.]~~

2238 (4) (a) Except as provided in Subsection (4)(b) or (c), a qualified medical provider may
 2239 not recommend a medical cannabis treatment to more than 175 of the qualified medical
 2240 provider's patients at the same time, as determined by the number of medical cannabis cards
 2241 under the qualified medical provider's name in the state electronic verification system.

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2242 ~~[(3)]~~ (b) Except as provided in Subsection (4)(c), [A physician] a qualified medical
 2243 provider may recommend a medical cannabis treatment to [greater than 20% of the physician's
 2244 patients] up to 300 of the qualified medical provider's patients at any given time, as determined
 2245 by the number of medical cannabis cards under the qualified medical provider's name in the
 2246 state electronic verification system, if:

2247 (i) ~~the [physician is certified, by the] appropriate American medical board[, in one of~~
 2248 ~~the following specialties:]~~ has certified the qualified medical provider in the specialty of
 2249 anesthesiology, gastroenterology, neurology, oncology, pain, hospice and palliative [care,
 2250 physiatry] medicine, physical medicine and rehabilitation, rheumatology, or psychiatry[-]; or

2251 (ii) a licensed business employs or contracts the qualified medical provider for the
 2252 specific purpose of providing hospice and palliative care.

2253 (c) (i) Notwithstanding Subsection (4)(b), a qualified medical provider described in
 2254 Subsection (4)(b) may petition the Division of Occupational and Professional Licensing for
 2255 authorization to exceed the limit described in Subsection (4)(b) by graduating increments of
 2256 100 patients per authorization, not to exceed three authorizations.

2257 (ii) The Division of Occupational and Professional Licensing shall grant the
 2258 authorization described in Subsection (4)(c)(i) if:

2259 (A) the petitioning qualified medical provider pays a \$100 fee;

2260 (B) the division performs a review that includes the qualified medical provider's
 2261 medical cannabis recommendation activity in the state electronic verification system, relevant
 2262 information related to patient demand, and any patient medical records that the division
 2263 determines would assist in the division's review; and

2264 (C) after the review described in this Subsection (4)(c)(ii), the division determines that
 2265 granting the authorization would not adversely affect public safety, adversely concentrate the
 2266 overall patient population among too few qualified medical providers, or adversely concentrate
 2267 the use of medical cannabis among the provider's patients.

2268 ~~[(4)]~~ (5) A [physician] qualified medical provider may recommend medical cannabis to
 2269 an individual under this chapter only in the course of a [physician-patient] qualified medical

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2270 provider-patient relationship after the [physician] qualifying medical provider has completed
 2271 and documented in the patient's medical record a [full] thorough assessment of the patient's
 2272 condition and medical history based on the appropriate standard of care for the patient's
 2273 condition.

2274 ~~[(5)]~~ (6) (a) Except as provided in Subsection ~~[(5)(b)]~~ (6)(b), a ~~[physician eligible to~~
 2275 ~~recommend cannabis or a cannabis product under this section]~~ qualified medical provider may
 2276 not advertise that the ~~[physician]~~ qualified medical provider recommends medical cannabis ~~[or~~
 2277 ~~a cannabis product]~~ treatment.

2278 (b) ~~[A physician may advertise via]~~ For purposes of Subsection (6)(a), the
 2279 communication of the following, through a website [that displays only] does not constitute
 2280 advertising:

2281 (i) a green cross;
 2282 ~~[(ii) the location and hours of operation of the physician's office;]~~
 2283 ~~[(iii)]~~ (ii) a qualifying ~~[illness]~~ condition that the ~~[physician]~~ qualified medical provider
 2284 treats; ~~[and]~~ or
 2285 ~~[(iv)]~~ (iii) a scientific study regarding medical cannabis use.

2286 (7) (a) A qualified medical provider registration card expires two years after the day on
 2287 which the department issues the card.

2288 (b) The department shall renew a qualified medical provider's registration card if the
 2289 provider:

2290 (i) applies for renewal;
 2291 (ii) is eligible for a qualified medical provider registration card under this section,
 2292 including maintaining an unrestricted license as described in Subsection (2)(a)(iii);
 2293 (iii) certifies to the department in a renewal application that the information in
 2294 Subsection (2)(a) is accurate or updates the information;
 2295 (iv) submits a report detailing the completion of the continuing education requirement
 2296 described in Subsection (3); and
 2297 (v) pays the department a fee in an amount that:

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2298 (A) the department sets, in accordance with Section [63J-1-504](#); and

2299 (B) does not exceed \$50 for a registration renewal.

2300 (8) The department may revoke the registration of a qualified medical provider who
 2301 fails to maintain compliance with the requirements of this section.

2302 (9) A qualified medical provider may not receive any compensation or benefit for the
 2303 qualified medical provider's medical cannabis treatment recommendation from:

2304 (a) a cannabis production establishment or an owner, officer, director, board member,
 2305 employee, or agent of a cannabis production establishment;

2306 (b) a medical cannabis pharmacy or an owner, officer, director, board member,
 2307 employee, or agent of a medical cannabis pharmacy; or

2308 (c) a qualified medical provider or pharmacy medical provider.

2309 Section 51. Section **26-61a-107**, which is renumbered from Section 26-60b-108 is
 2310 renumbered and amended to read:

2311 ~~[26-60b-108].~~ **26-61a-107. Standard of care -- Physicians and pharmacists**
 2312 **not liable -- No private right of action.**

2313 ~~[A physician who recommends treatment with cannabis or a cannabis product to an~~
 2314 ~~individual in accordance with this chapter may not, based on the recommendation, be subject~~
 2315 ~~to]~~

2316 (1) An individual described in Subsection (2) is not subject to the following solely for
 2317 violating a federal law or regulation that would otherwise prohibit recommending, prescribing,
 2318 or dispensing medical cannabis, a medical cannabis product, or a cannabis-based drug that the
 2319 United States Food and Drug Administration has not approved:

2320 (a) civil ~~liability~~, or criminal liability[;]; or

2321 (b) licensure sanctions under Title 58, Chapter 17b, Pharmacy Practice Act, Title 58,
 2322 Chapter 31b, Nurse Practice Act, Title 58, Chapter 67, Utah Medical Practice Act ~~[or]~~, Title
 2323 58, Chapter 68, Utah Osteopathic Medical Practice Act, or Title 58, Chapter 70a, Physician
 2324 Assistant Act.

2325 (2) The limitations of liability described in Subsection (1) apply to:

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2326 (a) an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse
 2327 Practice Act, a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or
 2328 Title 58, Chapter 68, Utah Osteopathic Medical Practice Act, or a physician assistant licensed
 2329 under Title 58, Chapter 70a, Physician Assistant Act:

2330 (i) (A) whom the department has registered as a qualified medical provider; and

2331 (B) who recommends treatment with cannabis in a medicinal dosage form or a
 2332 cannabis product in a medicinal dosage form to a patient in accordance with this chapter; or

2333 (ii) before January 1, 2021, who:

2334 (A) has the authority to write a prescription; and

2335 (B) recommends a medical cannabis treatment to a patient who has a qualifying
 2336 condition; and

2337 (b) a pharmacist licensed under Title 58, Chapter 17b, Pharmacy Practice Act:

2338 (i) whom the department has registered as a pharmacy medical provider or a state
 2339 central fill medical provider; and

2340 (ii) who dispenses, in a medical cannabis pharmacy or the state central fill medical
 2341 cannabis pharmacy, treatment with cannabis in a medicinal dosage form or a cannabis product
 2342 in a medicinal dosage form to a medical cannabis cardholder in accordance with this chapter.

2343 (3) Nothing in this section or chapter reduces or in any way negates the duty of an
 2344 individual described in Subsection (2) to use reasonable and ordinary care in the treatment of a
 2345 patient:

2346 (a) who may have a qualifying condition; and

2347 (b) (i) for whom the individual described in Subsection (2)(a)(i) or (ii) has
 2348 recommended or might consider recommending a treatment with cannabis or a cannabis
 2349 product; or

2350 (ii) with whom the pharmacist described in Subsection (2)(b) has interacted in the
 2351 dosing or dispensing of cannabis or a cannabis product.

2352 Section 52. Section **26-61a-108** is enacted to read:

2353 **26-61a-108. Agreement with a tribe.**

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2354 (1) As used in this section, "tribe" means a federally recognized Indian tribe or Indian
 2355 band.

2356 (2) (a) In accordance with this section, the governor may enter into an agreement with a
 2357 tribe to allow for the operation of a medical cannabis pharmacy on tribal land located within
 2358 the state.

2359 (b) An agreement described in Subsection (2)(a) may not exempt any person from the
 2360 requirements of this chapter.

2361 (c) The governor shall ensure that an agreement described in Subsection (2)(a):

2362 (i) is in writing;

2363 (ii) is signed by:

2364 (A) the governor; and

2365 (B) the governing body of the tribe that the tribe designates and has the authority to
 2366 bind the tribe to the terms of the agreement;

2367 (iii) states the effective date of the agreement;

2368 (iv) provides that the governor shall renegotiate the agreement if the agreement is or
 2369 becomes inconsistent with a state statute; and

2370 (v) includes any accommodation that the tribe makes:

2371 (A) to which the tribe agrees; and

2372 (B) that is reasonably related to the agreement.

2373 (d) Before executing an agreement under this Subsection (2), the governor shall consult
 2374 with the department.

2375 (e) At least 30 days before the execution of an agreement described in this Subsection
 2376 (2), the governor or the governor's designee shall provide a copy of the agreement in the form
 2377 in which the agreement will be executed to:

2378 (i) the chairs of the Native American Legislative Liaison Committee; and

2379 (ii) the Office of Legislative Research and General Counsel.

2380 Section 53. Section **26-61a-109**, which is renumbered from Section 26-60b-109 is
 2381 renumbered and amended to read:

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2382 ~~[26-60b-109].~~ 26-61a-109. Qualified Patient Enterprise Fund -- Creation --
 2383 Revenue neutrality.

2384 (1) There is created ~~[in the General Fund a restricted account]~~ an enterprise fund
 2385 known as the ~~["Medical Cannabis Restricted Account."]~~ "Qualified Patient Enterprise Fund."

2386 (2) The ~~[account]~~ fund created in this section is funded from:

2387 ~~[(a) money deposited into the account by the Department of Agriculture and Food~~
 2388 ~~under Title 4, Chapter 41b, Cannabis Production Establishments;]~~

2389 ~~[(b)]~~ (a) money [deposited] the department deposits into the ~~[account by the~~
 2390 ~~department]~~ fund under this chapter;

2391 ~~[(c)]~~ (b) appropriations [made] the Legislature makes to the ~~[account by the~~
 2392 ~~Legislature]~~ fund; and

2393 ~~[(d)]~~ (c) the interest described in Subsection (3).

2394 (3) Interest earned on the ~~[account is]~~ fund shall be deposited [in] into the [account]
 2395 fund.

2396 (4) ~~[Money]~~ The department may only use money in the [account may only be used]
 2397 fund to fund the [state medical cannabis program, including Title 26, Chapter 60b, Medical
 2398 Cannabis Act and Title 4, Chapter 41b, Cannabis Production Establishments] department's
 2399 responsibilities under this chapter, except for the responsibilities described in Subsection

2400 26-61a-110(4).

2401 (5) The department shall set fees authorized under this chapter in amounts that the
 2402 department anticipates are necessary, in total, to cover the department's cost to implement this
 2403 chapter.

2404 Section 54. Section **26-61a-110** is enacted to read:

2405 **26-61a-110. Qualified Distribution Enterprise Fund -- Creation.**

2406 (1) There is created an enterprise fund known as the "Qualified Distribution Enterprise
 2407 Fund."

2408 (2) The fund created in this section is funded from:

2409 (a) money the department deposits into the fund from the operation of the state central

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2410 fill medical cannabis pharmacy under this chapter;

2411 (b) appropriations the Legislature makes to the fund; and

2412 (c) the interest described in Subsection (3).

2413 (3) Interest earned on the fund shall be deposited into the fund.

2414 (4) The department may only use money in the fund to fund the operation of the state

2415 central fill medical cannabis pharmacy.

2416 Section 55. Section **26-61a-111**, which is renumbered from Section 26-60b-110 is
2417 renumbered and amended to read:

2418 ~~[26-60b-110].~~ **26-61a-111. Nondiscrimination for medical care or**
2419 **government employment.**

2420 (1) For purposes of medical care, including an organ [and] or tissue [transplants, the
2421 use of cannabis by a patient who holds] transplant, a [medical cannabis card] patient's use, in
2422 accordance with this chapter, of cannabis in a medicinal dosage form or a cannabis product in a
2423 medicinal dosage form:

2424 (a) is considered the equivalent of the authorized use of any other medication used at
2425 the discretion of a physician; and

2426 (b) does not constitute the use of an illicit substance or otherwise disqualify an
2427 individual from needed medical care.

2428 ~~[(2) No landlord may refuse to lease to and may not otherwise penalize a person solely~~
2429 ~~for the person's status as a medical cannabis card holder, unless failing to do so would cause~~
2430 ~~the landlord to lose a monetary or licensing-related benefit under federal law.]~~

2431 (2) (a) Notwithstanding any other provision of law and except as provided in
2432 Subsection (2)(b), the state or any political subdivision shall treat an employee's use of medical
2433 cannabis in accordance with this chapter or Section [58-37-3.7](#) in the same way the state or
2434 political subdivision treats employee use of opioids and opiates.

2435 (b) Subsection (2)(a) does not apply where application would jeopardize federal
2436 funding for the employee's position.

2437 Section 56. Section **26-61a-112** is enacted to read:

H.B. 3001**Enrolled Copy****26-61a-112. No insurance requirement.**

Nothing in this chapter requires an insurer, a third-party administrator, or an employer to pay or reimburse for cannabis, a cannabis product, or a medical cannabis device.

Section 57. Section **26-61a-113** is enacted to read:

26-61a-113. No effect on use of hemp extract -- Cannabidiol -- Approved drugs.

(1) Nothing in this chapter prohibits an individual:

(a) with a valid hemp extract registration card that the department issues under Section 26-56-103 from possessing, administering, or using hemp extract in accordance with Section 58-37-4.3; or

(b) from purchasing, selling, possessing, or using a cannabidiol product in accordance with Section 4-41-402.

(2) Nothing in this chapter restricts or otherwise affects the prescription, distribution, or dispensing of a product that the United States Food and Drug Administration has approved.

Section 58. Section **26-61a-114** is enacted to read:

26-61a-114. Severability clause.

(1) If any provision of this title or this bill or the application of any provision of this title or this bill to any person or circumstance is held invalid by a final decision of a court of competent jurisdiction, the remaining provisions of this title and this bill remain effective without the invalidated provision or application.

(2) The provisions of this title and this bill are severable.

Section 59. Section **26-61a-201**, which is renumbered from Section 26-60b-201 is renumbered and amended to read:

Part 2. Medical Cannabis Card Registration.

~~[26-60b-201].~~ **26-61a-201. Medical cannabis patient card -- Medical cannabis guardian card application -- Fees -- Studies.**

(1) [The Department of Health shall, no later than] On or before March 1, 2020, [and] the department shall, within 15 days after [an individual] the day on which an individual who satisfies the eligibility criteria in this section or Section 26-61a-202 submits an application in

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2466 ~~[compliance]~~ accordance with this section~~;~~ or Section 26-61a-202:

2467 (a) issue a medical cannabis ~~patient~~ card to an individual ~~[who complies with this~~
 2468 ~~section.] described in Subsection (2)(a);~~

2469 (b) issue a medical cannabis guardian card to an individual described in Subsection
 2470 (2)(b);

2471 (c) issue a provisional patient card to a minor described in Subsection (2)(c); and

2472 (d) issue a medical cannabis caregiver card to an individual described in Subsection
 2473 26-61a-202(4).

2474 (2) (a) An individual is eligible for a medical cannabis ~~patient~~ card if:

2475 ~~[~~(a)~~]~~ (i) (A) the individual is at least ~~[18]~~ 21 years old~~;~~; or

2476 (B) the individual is 18, 19, or 20 years old, the individual petitions the compassionate
 2477 use board under Section 26-61a-105, and the compassionate use board recommends department
 2478 approval of the petition;

2479 (ii) the individual is a Utah resident~~;~~ and treatment with medical cannabis has been
 2480 ~~recommended by];~~

2481 (iii) the individual's ~~[physician under]~~ qualified medical provider recommends
 2482 treatment with medical cannabis in accordance with Subsection (4); ~~[or]~~

2483 (iv) the individual signs an acknowledgment stating that the individual received the
 2484 information described in Subsection (8); and

2485 (v) the individual pays to the department a fee in an amount that, subject to Subsection
 2486 26-61a-109(5), the department sets in accordance with Section 63J-1-504.

2487 (b) (i) ~~[the individual]~~ An individual is eligible for a medical cannabis guardian card if
 2488 the individual:

2489 (A) is at least 18 years old;

2490 (B) is a Utah resident;

2491 (C) is the parent or legal guardian of a minor~~;~~ ~~the individual is at least 18 years old;~~
 2492 ~~the individual is a Utah resident, and treatment with]~~ for whom the minor's qualified medical
 2493 provider recommends a medical cannabis ~~[has been recommended by the minor's physician~~

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2494 ~~under Subsection (4)]~~ treatment, the individual petitions the compassionate use board under
 2495 Section 26-61a-105, and the compassionate use board recommends department approval of the
 2496 petition;

2497 (D) the individual signs an acknowledgment stating that the individual received the
 2498 information described in Subsection (8);

2499 (E) pays to the department a fee in an amount that, subject to Subsection
 2500 26-61a-109(5), the department sets in accordance with Section 63J-1-504, plus the cost of the
 2501 criminal background check described in Section 26-61a-203; and

2502 (F) the individual has not been convicted of a misdemeanor or felony drug distribution
 2503 offense under either state or federal law, unless the individual completed any imposed sentence
 2504 six months or more before the day on which the individual applies for a medical cannabis
 2505 guardian card.

2506 (ii) The department shall notify the Department of Public Safety of each individual that
 2507 the department registers for a medical cannabis guardian card.

2508 (c) (i) A minor is eligible for a provisional patient card if:

2509 (A) the minor has a qualifying condition;

2510 (B) the minor's qualified medical provider recommends a medical cannabis treatment
 2511 to address the minor's qualifying condition;

2512 (C) the minor's parent or legal guardian petitions the compassionate use board under
 2513 Section 26-61a-105, and the compassionate use board recommends department approval of the
 2514 petition; and

2515 (D) the minor's parent or legal guardian is eligible for a medical cannabis guardian card
 2516 under Subsection (2)(b).

2517 (ii) The department shall automatically issue a provisional patient card to the minor
 2518 described in Subsection (2)(c)(i) at the same time the department issues a medical cannabis
 2519 guardian card to the minor's parent or legal guardian.

2520 (3) (a) An individual who is eligible for a medical cannabis card [~~under~~] described in
 2521 Subsection [~~(2)~~] (2)(a) or (b) shall submit an application for a medical cannabis card to the

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2522 department ~~[via]~~:

2523 (i) through an electronic application connected to the state electronic verification

2524 system~~[-]~~;

2525 (ii) with the recommending ~~[physician]~~ qualified medical provider while in the

2526 recommending ~~[physician's]~~ qualified medical provider's office~~[-]~~; and ~~[that includes]~~

2527 (iii) with information including:

2528 (A) the ~~[individual's]~~ applicant's name, gender, age, and address~~[-]~~;

2529 (B) the number of the applicant's valid form of identification that is a valid United

2530 States federal- or state-issued photo identification, including a driver license, a United States

2531 passport, a United States passport card, or a United States military identification card;

2532 (C) for a medical cannabis guardian card, the name, gender, and age of the minor

2533 receiving a medical cannabis treatment under the cardholder's medical cannabis guardian card;

2534 and

2535 (D) for a provisional patient card, the name of the minor's parent or legal guardian who

2536 holds the associated medical cannabis guardian card.

2537 (b) The department shall ensure that a medical cannabis card the department issues

2538 under this section contains the information described in Subsection (3)(a)(iii).

2539 (c) (i) If a qualified medical provider determines that, because of age, illness, or

2540 disability, a medical cannabis patient cardholder requires assistance in administering the

2541 medical cannabis treatment that the qualified medical provider recommends, the qualified

2542 medical provider may indicate the cardholder's need in the state electronic verification system.

2543 (ii) If a qualified medical provider makes the indication described in Subsection

2544 (3)(c)(i):

2545 (A) the department shall add a label to the relevant medical cannabis patient card

2546 indicating the cardholder's need for assistance; and

2547 (B) any adult who is 21 years old or older and who is physically present with the

2548 cardholder at the time the cardholder needs to use the recommended medical cannabis

2549 treatment may handle the medical cannabis treatment and any associated medical cannabis

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2550 device as needed to assist the cardholder in administering the recommended medical cannabis
 2551 treatment, including in the event of an emergency medical condition under Subsection
 2552 26-61a-204(2).

2553 (iii) A non-cardholding individual acting under Subsection (3)(c)(ii)(B) may not:

2554 (A) ingest or inhale medical cannabis;

2555 (B) possess, transport, or handle medical cannabis or a medical cannabis device outside
 2556 of the immediate area where the cardholder is present or with an intent other than to provide
 2557 assistance to the cardholder; or

2558 (C) possess, transport, or handle medical cannabis or a medical cannabis device when
 2559 the cardholder is not in the process of being dosed with medical cannabis.

2560 (4) [A physician who recommends treatment with] To recommend a medical cannabis
 2561 treatment to [an individual or minor] a patient or to renew a recommendation, a qualified
 2562 medical provider shall:

2563 (a) before recommending cannabis in a medicinal dosage form or a cannabis product in
 2564 a medicinal dosage form:

2565 (i) verify the patient's and, for a minor patient, the minor patient's parent or legal
 2566 guardian's valid form of identification described in Subsection (3)(a);

2567 (ii) review any record related to the patient and, for a minor patient, the patient's parent
 2568 or legal guardian in:

2569 (A) the state electronic verification system; and

2570 (B) the controlled substance database created in Section 58-37f-201; and

2571 (iii) consider the recommendation in light of the patient's qualifying condition and
 2572 history of medical cannabis and controlled substance use; and

2573 [(a)] (b) state in the [physician's] qualified medical provider's recommendation that the
 2574 [individual] patient:

2575 (i) suffers from a qualifying [illness] condition, including the type of qualifying
 2576 [illness,] condition; and [that the individual]

2577 (ii) may benefit from treatment with cannabis in a medicinal dosage form or a cannabis

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2578 product in a medicinal dosage form.~~;~~and]

2579 ~~[(b) before recommending cannabis or a cannabis product, look up the individual in the~~
2580 ~~controlled substance database created in Section 58-37f-201.]~~

2581 (5) (a) ~~[A]~~ Except as provided in Subsection (5)(b), a medical cannabis card [issued
2582 by] that the department issues under this section is valid for the lesser of:

2583 (i) an amount of time [determined by] that the [physician] qualified medical provider
2584 determines; or

2585 (ii) (A) for the first issuance, 30 days; or

2586 (B) for a renewal, six months.

2587 (b) (i) A medical cannabis card that the department issues in relation to a terminal
2588 illness described in Section 26-61a-104 does not expire.

2589 (ii) The recommending qualified medical provider may revoke a recommendation that
2590 the provider made in relation to a terminal illness described in Section 26-61a-104 if the
2591 medical cannabis cardholder no longer has the terminal illness.

2592 (6) (a) A medical cannabis patient card or a medical cannabis guardian card is
2593 renewable if:

2594 (i) at the time of renewal, the cardholder meets the requirements of Subsection (2)(a) or
2595 (b); or

2596 (ii) the cardholder received the medical cannabis card through the recommendation of
2597 the compassionate use board under Section 26-61a-105.

2598 (b) A cardholder described in Subsection (6)(a) may renew the cardholder's card:

2599 (i) using the application process described in Subsection (3); or

2600 (ii) through phone or video conference with the qualified medical provider who made
2601 the recommendation underlying the card, at the qualifying medical provider's discretion.

2602 (c) A cardholder under Subsection (2)(a) or (b) who renews the cardholder's card shall
2603 pay to the department a renewal fee in an amount that:

2604 (i) subject to Subsection 26-61a-109(5), the department sets in accordance with Section
2605 63J-1-504; and

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(ii) may not exceed the cost of the relatively lower administrative burden of renewal in comparison to the original application process.

(d) If a minor meets the requirements of Subsection (2)(c), the minor's provisional patient card renews automatically at the time the minor's parent or legal guardian renews the parent or legal guardian's associated medical cannabis guardian card.

(e) The department may revoke a medical cannabis guardian card if the cardholder under Subsection (2)(b) is convicted of a misdemeanor or felony drug distribution offense under either state or federal law.

~~[(6)]~~ (7) (a) ~~[An individual who has been issued a medical cannabis card]~~ A cardholder under this section ~~[may: (a)]~~ shall carry [a] the cardholder's valid medical cannabis card with the patient's name[;].

(b) (i) A medical cannabis patient cardholder or a provisional patient cardholder may purchase, in accordance with this chapter and the recommendation underlying the card, cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device.

(ii) A cardholder under this section may possess~~[; and]~~ or transport, in accordance with this chapter and the recommendation underlying the card, cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device[;].

~~[(c)]~~ (iii) ~~[use or assist with the use of medical cannabis or medical cannabis products to treat]~~ To address the qualifying [illness or symptoms associated with the qualifying illness of the person for whom medical cannabis has been recommended] condition underlying the medical cannabis treatment recommendation:

(A) a medical cannabis patient cardholder or a provisional patient cardholder may use cannabis in a medicinal dosage form, a medical cannabis product in a medicinal dosage form, or a medical cannabis device; and

(B) a medical cannabis guardian cardholder may assist the associated provisional patient cardholder with the use of cannabis in a medicinal dosage form, a medical cannabis product in a medicinal dosage form, or a medical cannabis device.

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~~[(d)]~~ (c) If neither a licensed medical cannabis pharmacy nor the state central fill medical cannabis pharmacy is operating within the state after January 1, 2021, [if a licensed cannabis dispensary is not operating within 100 miles of the medical cannabis card holder's primary residence, grow up to six cannabis plants for personal medical use within an enclosed and locked space and not within view from a public place and that is not within 600 feet of a community location or within 300 feet of an area zoned exclusively for residential use, as measured from the nearest entrance to the space and following the shortest route or ordinary pedestrian travel to the property boundary of the community location or residential area.] a cardholder under this section is not subject to prosecution for the possession of:

(i) no more than 113 grams of marijuana in a medicinal dosage form;

(ii) an amount of cannabis product in a medicinal dosage form that contains no more than 20 grams of tetrahydrocannabinol; or

(iii) marijuana drug paraphernalia.

(8) The department shall establish by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, a process to provide information regarding the following to an individual receiving a medical cannabis card:

(a) risks associated with medical cannabis treatment;

(b) the fact that a condition's listing as a qualifying condition does not suggest that medical cannabis treatment is an effective treatment or cure for that condition, as described in Subsection 26-61a-104(1); and

(c) other relevant warnings and safety information that the department determines.

~~[(7)]~~ (9) The department may establish procedures[;] by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement the [medical cannabis card] application and issuance provisions of this section.

~~[(8)]~~ (10) (a) A person may submit, to the department[;] a request to conduct a medical research study using medical cannabis cardholder data [contained in] that the state electronic verification system contains.

(b) The department shall review a request [submitted under] described in Subsection

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2662 ~~[(8)(a)]~~ (10)(a) to determine ~~[if]~~ whether the medical research study is valid.

2663 (c) If the department ~~[determines]~~ makes a determination under Subsection (10)(b) that
 2664 the medical research study is valid ~~[under Subsection (8)(b)]~~, the department shall notify ~~[a]~~
 2665 each relevant ~~[medical cannabis]~~ cardholder asking for the ~~[medical cannabis]~~ cardholder's
 2666 ~~[participation]~~ consent to participate in the study.

2667 (d) The department may release, for the purposes of a study described in this
 2668 Subsection (10), information about a ~~[medical cannabis]~~ cardholder under this section who
 2669 consents to ~~[participation]~~ participate under Subsection ~~[(8)(c)]~~ (10)(c).

2670 (e) The department may establish standards for a medical research study's validity, by
 2671 rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

2672 Section 60. Section **26-61a-202**, which is renumbered from Section 26-60b-202 is
 2673 renumbered and amended to read:

2674 ~~[26-60b-202].~~ **26-61a-202. Medical cannabis caregiver card -- Registration**
 2675 **-- Renewal -- Revocation.**

2676 (1) ~~[An individual]~~ A cardholder described in Section 26-61a-201 may designate up to
 2677 two individuals to serve as a designated ~~[caregivers]~~ caregiver for the ~~[individual]~~ cardholder
 2678 if:

2679 ~~[(a) the individual has a valid medical cannabis card under Section 26-60b-201; and]~~

2680 ~~[(b) a physician]~~ a qualified medical provider determines that, due to physical difficulty
 2681 or undue hardship, the ~~[individual]~~ cardholder needs assistance to obtain the medical cannabis
 2682 ~~[or a cannabis product from a cannabis dispensary]~~ treatment that the qualified medical
 2683 provider recommends.

2684 (2) An individual ~~[registered]~~ that the department registers as a designated caregiver
 2685 under this section:

2686 (a) may ~~[(a)]~~ carry a valid medical cannabis caregiver card ~~[with the designating~~
 2687 ~~patient's name and the designated caregiver's name]~~;

2688 (b) ~~[purchase, possess, and transport,]~~ in accordance with this chapter, may purchase,
 2689 possess, transport, or assist the patient in the use of cannabis in a medicinal dosage form, a

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2690 cannabis product in a medicinal dosage form, or a medical cannabis device on behalf of the
 2691 designating ~~[patient]~~ medical cannabis cardholder;

2692 (c) may not charge a fee to an individual to act as the individual's designated caregiver
 2693 or for a service that the designated caregiver provides in relation to the role as a designated
 2694 caregiver;

2695 ~~[(c)]~~ (d) may accept reimbursement from the designating ~~[patient]~~ medical cannabis
 2696 cardholder for direct costs ~~[incurred by]~~ the designated caregiver incurs for assisting with the
 2697 designating ~~[patient's]~~ cardholder's medicinal use of cannabis; and

2698 ~~[(d)]~~ (e) [after January 1, 2021,] if neither a licensed medical cannabis [dispensary]
 2699 pharmacy nor the state central fill medical cannabis pharmacy is [not] operating within [100
 2700 miles of the designating patient's primary residence, assist the designating patient with growing
 2701 up to six cannabis plants for personal medicinal use within an enclosed and locked space and
 2702 not within view from a public place and that is not within 600 feet of a community location or
 2703 within 300 feet of an area zoned exclusively for residential use, as measured from the nearest
 2704 entrance to the space and following the shortest route or ordinary pedestrian travel to the
 2705 property boundary of the community location or residential area.] the state after January 1,
 2706 2021, is not subject to prosecution for the possession of:

2707 (i) no more than 113 grams of marijuana in a medicinal dosage form;

2708 (ii) an amount of cannabis product in a medicinal dosage form that contains no more
 2709 than 20 grams of tetrahydrocannabinol; or

2710 (iii) marijuana drug paraphernalia.

2711 (3) (a) The department shall[;]:

2712 (i) within [30] 15 days after the day on which an individual submits an application in
 2713 compliance with this section, issue a medical cannabis card to [an individual designated as a
 2714 caregiver under Subsection (1) and who complies with this section.] the applicant if the
 2715 applicant:

2716 (A) is designated as a caregiver under Subsection (1);

2717 (B) is eligible for a medical cannabis caregiver card under Subsection (4); and

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2718 (C) complies with this section; and

2719 (ii) notify the Department of Public Safety of each individual that the department

2720 registers as a designated caregiver.

2721 (b) The department shall ensure that a medical cannabis caregiver card contains the

2722 information described in Subsection (5)(b).

2723 (4) An individual is eligible for a medical cannabis ~~[card as a designated]~~ caregiver

2724 card if the individual:

2725 (a) is at least ~~[18]~~ 21 years old;

2726 (b) is a Utah resident;

2727 (c) pays~~;~~ to the department~~;~~ a fee ~~[established by]~~ in an amount that, subject to

2728 Subsection ~~26-61a-109~~(5), the department sets in accordance with Section ~~63J-1-504~~, plus the

2729 cost of ~~[a]~~ the criminal background check ~~[required by]~~ described in Section ~~[26-60b-203]~~; and

2730 ~~26-61a-203~~;

2731 (d) signs an acknowledgment stating that the applicant received the information

2732 described in Subsection ~~26-61a-201~~(8); and

2733 ~~[(d)]~~ (e) has not been convicted of ~~[an]~~ a misdemeanor or felony drug distribution

2734 offense that is a felony under either state or federal law, unless the individual completes any

2735 imposed sentence ~~[imposed was completed seven]~~ two or more years ~~[earlier]~~ before the day on

2736 which the individual submits the application.

2737 (5) An ~~[individual who is]~~ eligible applicant for a medical cannabis caregiver card~~[as a~~

2738 designated caregiver] shall:

2739 (a) submit an application for a medical cannabis caregiver card to the department ~~[via]~~

2740 through an electronic application connected to the state electronic verification system; and

2741 ~~[shall include the individual's]~~

2742 (b) submit the following information in the application described in Subsection (5)(a):

2743 (i) the applicant's name, gender, age, and address ~~[and]~~;

2744 (ii) the name, gender, age, and address of the ~~[patient that]~~ cardholder described in

2745 Section ~~26-61a-201~~ who designated the ~~[individual under Subsection (1):]~~ applicant; and

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2746 (iii) if a medical cannabis guardian cardholder designated the caregiver, the name,
 2747 gender, and age of the minor receiving a medical cannabis treatment in relation to the medical
 2748 cannabis guardian cardholder.

2749 (6) ~~[A]~~ Except as provided in Subsection (6)(b), a medical cannabis caregiver card
 2750 [issued by] that the department issues under this section is valid for the lesser of:

2751 (a) an amount of time [determined by the physician, by the patient, or 6 months.] that
 2752 the cardholder described in Section 26-61a-201 who designated the caregiver determines; or

2753 (b) the amount of time remaining before the card of the cardholder described in Section
 2754 26-61a-201 expires.

2755 (7) ~~[A medical cannabis card is renewable for a designated caregiver if, at the time of~~
 2756 ~~renewal:]~~

2757 ~~[(a) the individual with a medical cannabis card described in Subsection (1) renews the~~
 2758 ~~caregiver's designation; and]~~

2759 ~~[(b) the]~~

2760 (a) If a designated caregiver meets the requirements of Subsection (4)[-], the designated
 2761 caregiver's medical cannabis caregiver card renews automatically at the time the cardholder
 2762 described in Section 26-61a-201 who designated the caregiver:

2763 (i) renews the cardholder's card; and

2764 (ii) renews the caregiver's designation, in accordance with Subsection (7)(b).

2765 (b) The department shall provide a method in the card renewal process to allow a
 2766 cardholder described in Section 26-61a-201 who has designated a caregiver to:

2767 (i) signify that the cardholder renews the caregiver's designation;

2768 (ii) remove a caregiver's designation; or

2769 (iii) designate a new caregiver.

2770 ~~[(8) A designated caregiver may not charge an individual a fee to act as the individual's~~
 2771 ~~designated caregiver or for services provided.]~~

2772 ~~[(9)]~~ (8) The [Department of Health] department may revoke a [designated caregiver's]
 2773 medical cannabis caregiver card if the [individual] designated caregiver:

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- 2774 (a) violates this chapter; or
- 2775 (b) is convicted ~~[of an offense that is a felony]~~ under ~~[either]~~ state or federal law of:
- 2776 (i) a felony; or
- 2777 (ii) after the effective date of this bill, a misdemeanor for drug distribution.

2778 Section 61. Section ~~26-61a-203~~, which is renumbered from Section 26-60b-203 is

2779 renumbered and amended to read:

2780 ~~[26-60b-203].~~ **26-61a-203. Designated caregiver -- Guardian -- Criminal**

2781 **background check.**

2782 (1) ~~[An individual registered as a designated caregiver]~~ Each applicant for a medical

2783 cannabis guardian card under Section [26-60b-202] 26-61a-201 or a medical cannabis

2784 caregiver card under Section 26-61a-202 shall:

2785 (a) submit [to a criminal background check in accordance with Subsection (2).(2) Each

2786 designated caregiver shall] to the department, at the time of application:

2787 ~~[(a)]~~ (i) [submit, to the department,] a fingerprint card in a form acceptable to the

2788 [department and the] Department of Public Safety; and

2789 (ii) a signed waiver in accordance with Subsection 53-10-108(4) acknowledging the

2790 registration of the applicant's fingerprints in the Federal Bureau of Investigation Next

2791 Generation Identification System's Rap Back Service; and

2792 (b) consent to a fingerprint background check by:

- 2793 (i) the ~~[Utah]~~ Bureau of Criminal Identification; and
- 2794 (ii) the Federal Bureau of Investigation.

2795 ~~[(3)]~~ (2) The [Department of Public Safety] Bureau of Criminal Identification shall:

2796 (a) [complete a Federal Bureau of Investigation Criminal Background Check for each

2797 designated caregiver] check the fingerprints the applicant submits under Subsection [(2) and]

2798 (1)(a) against the applicable state, regional, and national criminal records databases, including

2799 the Federal Bureau of Investigation Next Generation Identification System;

2800 (b) report the results of the background check to the department[-];

2801 (c) maintain a separate file of fingerprints that applicants submit under Subsection

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2802 (1)(a) for search by future submissions to the local and regional criminal records databases,
 2803 including latent prints;

2804 (d) request that the fingerprints be retained in the Federal Bureau of Investigation Next
 2805 Generation Identification System's Rap Back Service for search by future submissions to
 2806 national criminal records databases, including the Next Generation Identification System and
 2807 latent prints; and

2808 (e) establish a privacy risk mitigation strategy to ensure that the department only
 2809 receives notifications for an individual with whom the department maintains an authorizing
 2810 relationship.

2811 (3) The department shall:

2812 (a) assess an applicant who submits fingerprints under Subsection (1)(a) a fee in an
 2813 amount that the department sets in accordance with Section 63J-1-504 for the services that the
 2814 Bureau of Criminal Identification or another authorized agency provides under this section; and

2815 (b) remit the fee described in Subsection (3)(a) to the Bureau of Criminal
 2816 Identification.

2817 Section 62. Section **26-61a-204**, which is renumbered from Section 26-60b-204 is
 2818 renumbered and amended to read:

2819 ~~[26-60b-204].~~ **26-61a-204. Medical cannabis card -- Patient and designated**
 2820 **caregiver requirements -- Rebuttable presumption.**

2821 (1) (a) ~~[An individual who has a]~~ A medical cannabis [card and] cardholder who
 2822 possesses cannabis in a medicinal dosage form or a cannabis product [outside of] in a
 2823 medicinal dosage form that the [individual's residence] cardholder purchased under this chapter
 2824 shall:

2825 ~~[(a)]~~ (i) ~~carry[, with the individual]~~ at all times[,] the ~~[individual's]~~ cardholder's
 2826 medical cannabis card;

2827 ~~[(b)]~~ (ii) carry, with the cannabis in a medicinal dosage form or cannabis product in a
 2828 medicinal dosage form, a label that identifies that the cannabis or cannabis product;

2829 (A) was [originally] sold from a licensed medical cannabis [dispensary and] pharmacy

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2830 or the state central fill medical cannabis pharmacy; and

2831 (B) includes an identification number that links the cannabis or cannabis product to the
 2832 inventory control system; and

2833 ~~[(c)]~~ (iii) possess not more than ~~[four ounces]~~:

2834 (A) 113 grams of unprocessed cannabis; or

2835 (B) an amount of cannabis product that contains 20 ~~[or fewer]~~ grams of total composite
 2836 tetrahydrocannabinol ~~[or cannabidiol]~~.

2837 (b) A medical cannabis cardholder who possesses cannabis in a medicinal dosage form
 2838 or a cannabis product in a medicinal dosage form in violation of Subsection (1)(a) is:

2839 (i) guilty of an infraction; and

2840 (ii) subject to a \$100 fine.

2841 (c) A medical cannabis cardholder who possesses between 113 and 226 grams of
 2842 unprocessed cannabis or a total amount of cannabis product that contains between 20 and 40
 2843 grams of total composite tetrahydrocannabinol is:

2844 (i) guilty of a class B misdemeanor; and

2845 (ii) subject to a fine of \$1,000.

2846 (d) An individual who is guilty of a violation described in Subsection (1)(b) or (c) is
 2847 not guilty of a violation of Title 58, Chapter 37, Utah Controlled Substances Act, for the
 2848 conduct underlying the penalty described in Subsection (1)(b) or (c).

2849 (e) A medical cannabis cardholder who possesses more than 226 grams of unprocessed
 2850 cannabis or a total amount of cannabis product that contains more than 40 grams of total
 2851 composite tetrahydrocannabinol is subject to the penalties described in Title 58, Chapter 37,
 2852 Utah Controlled Substances Act.

2853 (2) (a) As used in this Subsection (2), "emergency medical condition" means the same
 2854 as that term is defined in Section [31A-22-627](#).

2855 ~~[(a)]~~ (b) Except as described in Subsection ~~[(2)(b)]~~, ~~an individual who has~~ (2)(c), a
 2856 medical cannabis ~~[card]~~ patient cardholder or a provisional patient cardholder may not use, in
 2857 public view, cannabis or a cannabis product ~~[in public view]~~.

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2858 ~~[(b)]~~ (c) ~~[An]~~ In the event of an emergency medical condition, an individual described
 2859 in Subsection (2)(b) may use [cannabis or a cannabis product], and the holder of a medical
 2860 cannabis guardian card or a medical cannabis caregiver card may administer to the cardholder's
 2861 charge, in public view [in the event of a medical emergency], cannabis in a medicinal dosage
 2862 form or a cannabis product in a medicinal dosage form.

2863 (3) If ~~[an individual]~~ a medical cannabis cardholder carrying the cardholder's card
 2864 possesses cannabis in a medicinal dosage form or a cannabis product in compliance with
 2865 Subsection (1), or a medical cannabis device that corresponds with the cannabis or cannabis
 2866 product:

2867 (a) there is a rebuttable presumption that the ~~[individual]~~ cardholder possesses the
 2868 cannabis, cannabis product, or medical cannabis device legally; and

2869 ~~[a law enforcement officer does not have]~~ there is no probable cause, based solely
 2870 on the [individual's] cardholder's possession of the cannabis in medicinal dosage form,
 2871 cannabis product in medicinal dosage form, or medical cannabis device, to believe that the
 2872 [individual] cardholder is engaging in illegal activity.

2873 (4) (a) If a law enforcement officer stops an individual who possesses cannabis in a
 2874 medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis
 2875 device, and the individual represents to the law enforcement officer that the individual holds a
 2876 valid medical cannabis card, but the individual does not have the medical cannabis card in the
 2877 individual's possession at the time of the stop by the law enforcement officer, the law
 2878 enforcement officer shall attempt to access the state electronic verification system to determine
 2879 whether the individual holds a valid medical cannabis card.

2880 (b) If the law enforcement officer is able to verify that the individual described in
 2881 Subsection (4)(a) ~~[holds]~~ is a valid medical cannabis [card] cardholder, the law enforcement
 2882 officer:

2883 (i) may not arrest or take the individual into custody for the sole reason that the
 2884 individual is in possession of cannabis in a medicinal dosage form, a cannabis product in a
 2885 medicinal dosage form, or a medical cannabis device; and

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(ii) may not seize the cannabis, cannabis product, or medical cannabis device.

~~[(5) An individual who possesses cannabis, a cannabis product, or a medical cannabis device in violation of Subsection (1)(a) or Subsection 1(b) is guilty of an infraction and subject to a \$100 fine.]~~

Section 63. Section **26-61a-205** is enacted to read:

26-61a-205. Lost or stolen medical cannabis card.

(1) If a medical cannabis card is lost or stolen, the medical cannabis cardholder shall report the lost or stolen card to the department.

(2) Upon receiving the report described in Subsection (1), the department shall designate the medical cannabis card as lost or stolen in the state electronic verification system.

(3) A medical cannabis pharmacy agent or a local health department distribution agent may confiscate a medical cannabis card that is designated as lost or stolen in accordance with Subsection (2) if an individual presents the card at the relevant medical cannabis pharmacy or local health department.

(4) To request a new medical cannabis card, the medical cannabis cardholder described in Subsection (1) shall:

(a) complete a form that the department designates; and

(b) pay a fee in an amount that, subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504.

Section 64. Section **26-61a-301**, which is renumbered from Section 26-60b-301 is renumbered and amended to read:

Part 3. Medical Cannabis Pharmacy License.

~~[26-60b-301].~~ **26-61a-301. Medical cannabis pharmacy -- License -- Eligibility.**

(1) A person may not operate as a medical cannabis ~~[dispensary]~~ pharmacy without a license ~~[issued by]~~ that the department [issued] issues under this part.

(2) (a) Subject to ~~[Subsections (5)]~~ Subsections (4) and (5) and to Section ~~[26-60b-304]~~ 26-61a-305, the department shall, ~~[within 90 business days after receiving a~~

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2914 ~~complete application~~] in accordance with Title 63G, Chapter 6a, Utah Procurement Code, issue
 2915 a license to operate a medical cannabis [~~dispensary~~] pharmacy to ~~[a person who]~~ an applicant
 2916 who is eligible for a license under this section.

2917 (b) An applicant is eligible for a license under this section if the applicant submits to
 2918 the department:

2919 ~~[(a)]~~ (i) subject to Subsection (2)(c), a proposed name and address where the [person]
 2920 applicant will operate the medical cannabis [~~dispensary~~] pharmacy [that is not within 600 feet
 2921 of a community location or within 300 feet of an area zoned exclusively for residential use, as
 2922 measured from the nearest entrance to the cannabis production establishment by following the
 2923 shortest route of ordinary pedestrian travel to the property boundary of the community location
 2924 or residential area];

2925 ~~[(b)]~~ (ii) the name and address of [any] an individual who:

2926 (A) has a financial or voting interest of [~~two percent~~] 2% or greater in the proposed
 2927 medical cannabis [~~dispensary~~] pharmacy; or [who]

2928 (B) has the power to direct or cause the management or control of a proposed cannabis
 2929 production establishment;

2930 ~~[(c)]~~ (iii) ~~[financial statements demonstrating that the person possesses a minimum of~~
 2931 \$250,000 in liquid assets available] evidence that the applicant has obtained and maintains a
 2932 performance bond that a surety authorized to transact surety business in the state issues in an
 2933 amount of at least \$125,000 for each application [submitted] that the applicant submits to the
 2934 department;

2935 ~~[(d)]~~ (iv) an operating plan that:

2936 (A) complies with Section [~~26-60b-303~~] 26-61a-304; and [that]

2937 (B) includes operating procedures to comply with the operating requirements for a
 2938 medical cannabis [~~dispensary~~] pharmacy described in this chapter and with[~~any laws adopted~~
 2939 by the municipality] a relevant municipal or county law that [are] is consistent with Section
 2940 [~~26-60b-506~~] 26-61a-507;

2941 ~~[(e)] if the municipality or county where the proposed cannabis production~~

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establishment would be located ~~has enacted zoning restrictions, a sworn statement certifying that the proposed cannabis dispensary is in compliance with the restrictions;~~

~~[(f)]~~ (v) if the municipality or county where the proposed medical cannabis ~~[dispensary]~~ pharmacy would be located requires a local land use permit ~~[or license]~~, a copy of the person's approved application for the local land use permit ~~[or license]~~; and

~~[(g)]~~ (vi) an application fee ~~[established by]~~ in an amount that, subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504 [that is necessary to cover the department's cost to implement this part;].

(c) (i) A person may not locate a medical cannabis pharmacy in or within 600 feet of an area that the relevant municipality or county has zoned as primarily residential.

(ii) An applicant for a license under this section shall provide evidence of compliance with the proximity requirement described in Subsection (2)(c)(i).

(d) Except as provided in Subsection (2)(c), a medical cannabis pharmacy is a permitted use in all zoning districts within a municipality or county.

(e) If the department receives more than one application for a medical cannabis pharmacy within the same city or town, the department shall consult with the local land use authority before approving any of the applications pertaining to that city or town.

~~[(4)]~~ (3) If the department determines that ~~[a cannabis dispensary]~~ an applicant is eligible for a license under this section, the department shall:

(a) charge the [cannabis dispensary] applicant an initial license fee in an amount [determined by] that, subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504[-]; and

(b) notify the Department of Public Safety of the license approval and the names of each individual described in Subsection (2)(b)(ii).

~~[(5)]~~ (4) The department may not issue a license to operate a medical cannabis ~~[dispensary]~~ pharmacy to an applicant if ~~[any]~~ an individual ~~[who has a financial or voter interest of two percent or greater in the cannabis dispensary applicant or who has power to direct or cause the management or control of the applicant]~~ described in Subsection (2)(b)(ii):

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2970 (a) has been convicted ~~[of an offense that is a felony]~~ under ~~[either]~~ state or federal
 2971 law~~[-or]~~ of:
 2972 (i) a felony; or
 2973 (ii) after the effective date of this bill, a misdemeanor for drug distribution; or
 2974 (b) is ~~[less]~~ younger than 21 years ~~[of age]~~ old.
 2975 (5) If an applicant for a medical cannabis pharmacy license under this section holds a
 2976 license under Title 4, Chapter 41, Hemp and Cannabidiol Act, or Title 4, Chapter 41a,
 2977 Cannabis Production Establishments, the department:
 2978 (a) shall consult with the Department of Agriculture and Food regarding the applicant;
 2979 and
 2980 (b) may not give preference to the applicant based on the applicant's status as a holder
 2981 of a license described in this Subsection (5).
 2982 (6) The department may revoke a license under this part if:
 2983 (a) the medical cannabis [dispensary is not operating] pharmacy does not begin
 2984 operations within one year [of the issuance of] after the day on which the department issues the
 2985 initial license[-];
 2986 (b) the medical cannabis pharmacy makes the same violation of this chapter three
 2987 times; or
 2988 (c) an individual described in Subsection (2)(a)(ii) is convicted, while the license is
 2989 active, under state or federal law of:
 2990 (i) a felony; or
 2991 (ii) after the effective date of this bill, a misdemeanor for drug distribution.
 2992 (7) The department shall deposit the proceeds of a fee imposed by this section in the
 2993 ~~[Medical Cannabis Restricted]~~ Qualified Patient Enterprise Account.
 2994 (8) The department shall begin accepting applications under this part ~~[no later than]~~ on
 2995 or before March 1, 2020.
 2996 (9) The department's authority to issue a license under this section is plenary and is not
 2997 subject to review.

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Section 65. Section ~~26-61a-302~~, which is renumbered from Section 26-60b-402 is renumbered and amended to read:

~~[26-60b-402].~~ **26-61a-302. Medical cannabis pharmacy owners and directors -- Criminal background checks.**

(1) Each applicant for a license as a medical cannabis pharmacy shall submit, at the time of application, from each individual who has a financial or voting interest of ~~[two percent]~~ 2% or greater in the applicant or who has the power to direct or cause the management or control of the applicant:

(a) a fingerprint card in a form acceptable to the ~~[department; and]~~ Department of Public Safety;

(b) a signed waiver in accordance with Subsection 53-10-108(4) acknowledging the registration of the individual's fingerprints in the Federal Bureau of Investigation Next Generation Identification System's Rap Back Service; and

~~[(b)]~~ (c) consent to a fingerprint background check by:

(i) ~~the [Utah]~~ Bureau of Criminal Identification; and

(ii) the Federal Bureau of Investigation.

~~[(2) The department shall request that the Department of Public Safety complete a Federal Bureau of Investigation criminal background check for each individual described in Subsection (1).]~~

(2) The Bureau of Criminal Identification shall:

(a) check the fingerprints the applicant submits under Subsection (1) against the applicable state, regional, and national criminal records databases, including the Federal Bureau of Investigation Next Generation Identification System;

(b) report the results of the background check to the department;

(c) maintain a separate file of fingerprints that applicants submit under Subsection (1) for search by future submissions to the local and regional criminal records databases, including latent prints;

(d) request that the fingerprints be retained in the Federal Bureau of Investigation Next

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3026 Generation Identification System's Rap Back Service for search by future submissions to
 3027 national criminal records databases, including the Next Generation Identification System and
 3028 latent prints; and

3029 (e) establish a privacy risk mitigation strategy to ensure that the department only
 3030 receives notifications for an individual with whom the department maintains an authorizing
 3031 relationship.

3032 (3) The department shall:

3033 (a) assess an individual who submits fingerprints under Subsection (1) a fee in an
 3034 amount that the department sets in accordance with Section 63J-1-504 for the services that the
 3035 Bureau of Criminal Identification or another authorized agency provides under this section; and

3036 (b) remit the fee described in Subsection (3)(a) to the Bureau of Criminal
 3037 Identification.

3038 Section 66. Section **26-61a-303**, which is renumbered from Section 26-60b-302 is
 3039 renumbered and amended to read:

3040 **[26-60b-302]. 26-61a-303. Renewal.**

3041 (1) ~~[Except as provided in Subsection (3), the]~~ The department shall renew a ~~[person's]~~
 3042 license under this part every ~~[two years]~~ year if, at the time of renewal:

3043 (a) the ~~[person]~~ licensee meets the requirements of Section ~~[26-60b-301]~~ 26-61a-301;
 3044 and

3045 (b) the ~~[person]~~ licensee pays the department a license renewal fee in an amount
 3046 ~~[determined by]~~ that, subject to Subsection 26-61a-109(5), the department sets in accordance
 3047 with Section 63J-1-504.

3048 (2) (a) If a licensed medical cannabis ~~[dispensary]~~ pharmacy abandons the medical
 3049 cannabis ~~[dispensary's]~~ pharmacy's license, the department shall publish notice of an available
 3050 license;

3051 (i) in a newspaper of general circulation for the geographic area in which the medical
 3052 cannabis ~~[dispensary]~~ pharmacy license is available; or

3053 (ii) on the Utah Public Notice Website established in Section 63F-1-701.

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(b) The department may establish criteria, in collaboration with the Division of Occupational and Professional Licensing and the Board of Pharmacy and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, ~~[for what actions by a]~~ to identify the medical cannabis [dispensary] pharmacy actions that constitute abandonment of a medical cannabis [dispensary] pharmacy license.

Section 67. Section **26-61a-304**, which is renumbered from Section 26-60b-303 is renumbered and amended to read:

~~**[26-60b-303].**~~ **26-61a-304. Operating plan.**

~~[(+)]~~ A person applying for a medical cannabis [dispensary] pharmacy license shall submit to the department a proposed operation plan for the medical cannabis [dispensary] pharmacy that complies with this section and that includes:

~~[(a)]~~ (1) a description of the physical characteristics of the proposed facility, including a floor plan and an architectural elevation;

~~[(b)]~~ (2) a description of the credentials and experience of:

~~[(i)]~~ (a) each officer, director, or owner of the proposed medical cannabis [dispensary] pharmacy; and

~~[(ii)]~~ (b) any highly skilled or experienced prospective employee;

~~[(c)]~~ (3) the medical cannabis [dispensary's] pharmacy's employee training standards;

~~[(d)]~~ (4) a security plan; ~~[and]~~

~~[(e)]~~ (5) a description of the medical cannabis [dispensary's] pharmacy's inventory control system, including a plan to make the inventory control system compatible with the state electronic verification system~~[-]; and~~

(6) storage protocols, both short- and long-term, to ensure that cannabis is stored in a manner that is sanitary and preserves the integrity of the cannabis.

Section 68. Section **26-61a-305**, which is renumbered from Section 26-60b-304 is renumbered and amended to read:

~~**[26-60b-304].**~~ **26-61a-305. Maximum number of licenses.**

(1) (a) [The] Except as provided in Subsection (1)(b), the department may not issue

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3082 more than ~~[the greater of, in each county in the state:]~~ seven medical cannabis pharmacy
 3083 licenses.

3084 ~~[(a) one cannabis dispensary license; or]~~

3085 ~~[(b) an amount of cannabis dispensary licenses equal to the number of residents in the~~
 3086 ~~county divided by 150,000, rounded up to the nearest greater whole number.]~~

3087 (b) (i) In addition to the licenses described in Subsection (1)(a), the department shall
 3088 issue an eighth license if the state central fill medical cannabis pharmacy:

3089 (A) is not operational by January 1, 2021; or

3090 (B) ceases operations after January 1, 2021.

3091 (ii) In addition to the licenses described in Subsections (1)(a) and (1)(b)(i), the
 3092 department shall issue a ninth license if the state central fill medical cannabis pharmacy:

3093 (A) is not operational by July 1, 2021; or

3094 (B) ceases operations after July 1, 2021.

3095 (iii) In addition to the licenses described in Subsections (1)(a), (1)(b)(i), and (1)(b)(ii),
 3096 the department shall issue a tenth license if the state central fill medical cannabis pharmacy:

3097 (A) is not operational by January 1, 2022; or

3098 (B) ceases operations after January 1, 2022.

3099 (iv) The department shall issue the licenses described in Subsection (1)(b)(i), (ii), and

3100 (iii), if a final order of a court enjoins or invalidates the operation of the state central fill
 3101 medical cannabis pharmacy.

3102 (2) If there are more qualified applicants than there are available licenses for medical
 3103 cannabis ~~[dispensaries]~~ pharmacies, the department shall:

3104 (a) evaluate ~~[the applicants]~~ each applicant and award the license to the applicant that
 3105 best demonstrates:

3106 ~~[(a)]~~ (i) experience with establishing and successfully operating a business that
 3107 involves complying with a regulatory environment, tracking inventory, and training, evaluating,
 3108 and monitoring employees;

3109 ~~[(b)]~~ (ii) an operating plan that will best ensure the safety and security of patrons and

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3110 the community;

3111 ~~[(e)]~~ (iii) positive connections to the local community;

3112 ~~[(d)]~~ (iv) the suitability of the proposed location and ~~[its]~~ the location's accessibility for
3113 qualifying patients; and

3114 ~~[(e)]~~ (v) the extent to which the applicant can reduce the cost of cannabis or cannabis
3115 products for patients~~[-]; and~~

3116 (b) ensure a geographic dispersal among licensees that is sufficient to reasonably
3117 maximize access to the largest number of medical cannabis cardholders.

3118 (3) The department may conduct a face-to-face interview with an applicant for a
3119 license that the department evaluates under Subsection (2).

3120 Section 69. Section ~~26-61a-401~~, which is renumbered from Section 26-60b-401 is
3121 renumbered and amended to read:

3122 **Part 4. Medical Cannabis Pharmacy Agents**

3123 ~~[26-60b-401].~~ **26-61a-401. Medical cannabis pharmacy agent --**

3124 **Registration.**

3125 (1) An individual may not serve as a medical cannabis ~~[dispensary]~~ pharmacy agent of
3126 a medical cannabis ~~[dispensary]~~ pharmacy unless ~~[the individual is registered by]~~ the
3127 department registers the individual as a medical cannabis ~~[dispensary]~~ pharmacy agent.

3128 (2) ~~[A physician]~~ Except as provided in Section 26-61a-403, the following individuals,
3129 regardless of the individual's status as a qualified medical provider, may not act as a medical
3130 cannabis ~~[dispensary]~~ pharmacy agent~~[-], have a financial or voting interest of 2% or greater in~~
3131 a medical cannabis pharmacy, or have the power to direct or cause the management or control
3132 of a medical cannabis pharmacy:

3133 (a) an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse
3134 Practice Act;

3135 (b) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title
3136 58, Chapter 68, Utah Osteopathic Medical Practice Act; or

3137 (c) a physician assistant licensed under Title 58, Chapter 70a, Physician Assistant Act.

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3138 (3) (a) The department shall, within 15 days after ~~[receiving]~~ the day on which the
 3139 department receives a complete application from a medical cannabis ~~[dispensary]~~ pharmacy on
 3140 behalf of a prospective medical cannabis ~~[dispensary]~~ pharmacy agent, register and issue a
 3141 medical cannabis ~~[dispensary]~~ pharmacy agent registration card to ~~[an individual who]~~ the
 3142 prospective agent if the medical cannabis pharmacy:

3143 ~~[(a)]~~ (i) provides to the department:

3144 (A) the ~~[individual's]~~ prospective agent's name and address ~~[and]~~;

3145 (B) the name and location of the licensed medical cannabis ~~[dispensary]~~ pharmacy
 3146 where the ~~[individual]~~ prospective agent seeks to act as the medical cannabis ~~[dispensary]~~
 3147 pharmacy agent; [and]

3148 (C) the submission required under Subsection (3)(b); and

3149 ~~[(b)]~~ (ii) pays a fee to the department~~;~~ in an amount ~~[determined by]~~ that, subject to
 3150 Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504~~[-that is~~
 3151 necessary to cover the department's cost to implement this part].

3152 (b) Each prospective agent described in Subsection (3)(a) shall:

3153 (i) submit to the department:

3154 (A) a fingerprint card in a form acceptable to the Department of Public Safety; and

3155 (B) a signed waiver in accordance with Subsection 53-10-108(4) acknowledging the
 3156 registration of the prospective agent's fingerprints in the Federal Bureau of Investigation Next
 3157 Generation Identification System's Rap Back Service; and

3158 (ii) consent to a fingerprint background check by:

3159 (A) the Bureau of Criminal Identification; and

3160 (B) the Federal Bureau of Investigation.

3161 (c) The Bureau of Criminal Identification shall:

3162 (i) check the fingerprints the prospective agent submits under Subsection (3)(b) against
 3163 the applicable state, regional, and national criminal records databases, including the Federal
 3164 Bureau of Investigation Next Generation Identification System;

3165 (ii) report the results of the background check to the department;

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3166 (iii) maintain a separate file of fingerprints that prospective agents submit under
3167 Subsection (3)(b) for search by future submissions to the local and regional criminal records
3168 databases, including latent prints;

3169 (iv) request that the fingerprints be retained in the Federal Bureau of Investigation Next
3170 Generation Identification System's Rap Back Service for search by future submissions to
3171 national criminal records databases, including the Next Generation Identification System and
3172 latent prints; and

3173 (v) establish a privacy risk mitigation strategy to ensure that the department only
3174 receives notifications for an individual with whom the department maintains an authorizing
3175 relationship.

3176 (d) The department shall:

3177 (i) assess an individual who submits fingerprints under Subsection (3)(b) a fee in an
3178 amount that the department sets in accordance with Section 63J-1-504 for the services that the
3179 Bureau of Criminal Identification or another authorized agency provides under this section; and

3180 (ii) remit the fee described in Subsection (3)(d) to the Bureau of Criminal
3181 Identification.

3182 (4) The department shall designate, on an individual's medical cannabis [~~dispensary~~
3183 pharmacy agent registration card[;] the name of the medical cannabis [~~dispensary~~] pharmacy
3184 where the individual is registered as an agent.

3185 (5) A medical cannabis [~~dispensary~~] pharmacy agent shall comply with a certification
3186 standard [~~developed by the department~~] that the department develops in collaboration with the
3187 Division of Occupational and Professional Licensing and the Board of Pharmacy, or a [~~third~~
3188 party] third-party certification standard [~~designated by~~] that the department[;] designates by
3189 rule [~~made~~], in collaboration with the Division of Occupational and Professional Licensing and
3190 the Board of Pharmacy and in accordance with Title 63G, Chapter 3, Utah Administrative
3191 Rulemaking Act.

3192 (6) The department shall ensure that the certification standard described in Subsection
3193 (5) [~~shall include~~] includes training in:

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3194 (a) Utah medical cannabis law; and

3195 (b) medical cannabis [dispensary] pharmacy best practices.

3196 (7) The department may revoke ~~[or refuse to issue]~~ the medical cannabis [dispensary]

3197 pharmacy agent registration card of, or refuse to issue a medical cannabis pharmacy agent

3198 registration card to, an individual who:

3199 (a) violates the requirements of this chapter; or

3200 (b) is convicted ~~[of an offense that is a felony]~~ under state or federal law~~[-]~~ of:

3201 (i) a felony; or

3202 (ii) after the effective date of this bill, a misdemeanor for drug distribution.

3203 (8) (a) A medical cannabis pharmacy agent registration card expires two years after the

3204 day on which the department issues or renews the card.

3205 (b) A medical cannabis pharmacy agent may renew the agent's registration card if the

3206 agent:

3207 (i) is eligible for a medical cannabis pharmacy agent registration card under this

3208 section;

3209 (ii) certifies to the department in a renewal application that the information in

3210 Subsection (3)(a) is accurate or updates the information; and

3211 (iii) pays to the department a renewal fee in an amount that:

3212 (A) subject to Subsection 26-61a-109(5), the department sets in accordance with

3213 Section 63J-1-504; and

3214 (B) may not exceed the cost of the relatively lower administrative burden of renewal in

3215 comparison to the original application process.

3216 Section 70. Section **26-61a-402**, which is renumbered from Section 26-60b-403 is

3217 renumbered and amended to read:

3218 ~~[26-60b-403].~~ **26-61a-402. Medical cannabis pharmacy agent registration**

3219 **card -- Rebuttable presumption.**

3220 (1) A medical cannabis [dispensary] pharmacy agent [who is registered with the

3221 department under section 426-60b-401] shall carry the individual's medical cannabis

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3222 ~~[dispensary]~~ pharmacy agent registration card with the individual at all times when:

3223 (a) the individual is on the premises of a medical cannabis ~~[dispensary]~~ pharmacy; and

3224 (b) the individual is transporting cannabis in a medicinal dosage form, a cannabis
3225 product in a medicinal dosage form, or a medical cannabis device between ~~[two cannabis~~
3226 ~~production establishments or between]~~ a cannabis production establishment and a medical
3227 cannabis ~~[dispensary]~~ pharmacy.

3228 (2) If an individual handling, at a medical cannabis pharmacy, cannabis in a medicinal
3229 dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device ~~[at a~~
3230 ~~cannabis dispensary]~~, or transporting cannabis in a medicinal dosage form, a cannabis product
3231 in a medicinal dosage form, or a medical cannabis device, possesses the cannabis, cannabis
3232 product, or medical cannabis device in compliance with Subsection (1):

3233 (a) there is a rebuttable presumption that the individual possesses the cannabis,
3234 cannabis product, or medical cannabis device legally; and

3235 (b) ~~[a law enforcement officer does not have]~~ there is no probable cause, based solely
3236 on the individual's possession of the cannabis in medicinal dosage form, cannabis product in
3237 medicinal dosage form, or medical cannabis device in compliance with Subsection (1), ~~[to~~
3238 ~~believe]~~ that the individual is engaging in illegal activity.

3239 (3) (a) ~~[An individual who violates]~~ A medical cannabis pharmacy agent who fails to
3240 carry the agent's medical cannabis pharmacy agent registration card in accordance with
3241 Subsection (1) is:

3242 (i) for a first or second offense in a two-year period:

3243 ~~[(a)]~~ (A) guilty of an infraction; and

3244 ~~[(b)]~~ (B) is subject to a \$100 fine~~[-];~~ or

3245 (ii) for a third or subsequent offense in a two-year period:

3246 (A) guilty of a class C misdemeanor; and

3247 (B) subject to a \$750 fine.

3248 (b) (i) The prosecuting entity shall notify the department and the relevant medical
3249 cannabis pharmacy of each conviction under Subsection (3)(a).

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(ii) For each violation described in Subsection (3)(a)(ii), the department may assess the relevant medical cannabis pharmacy a fine of up to \$5,000, in accordance with a fine schedule that the department establishes by rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(c) An individual who is guilty of a violation described in Subsection (3)(a) is not guilty of a violation of Title 58, Chapter 37, Utah Controlled Substances Act, for the conduct underlying the violation described in Subsection (3)(a).

Section 71. Section **26-61a-403** is enacted to read:

26-61a-403. Pharmacy medical providers -- Registration -- Continuing education.

(1) (a) A medical cannabis pharmacy:

(i) shall employ a pharmacist who is licensed under Title 58, Chapter 17b, Pharmacy Practice Act, as a pharmacy medical provider;

(ii) may employ a physician who has the authority to write a prescription and is licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act, as a pharmacy medical provider;

(iii) shall ensure that a pharmacy medical provider described in Subsection (1)(a)(i) works onsite during all business hours; and

(iv) shall designate one pharmacy medical provider described in Subsection (1)(a)(i) as the pharmacist-in-charge to oversee the operation of and generally supervise the medical cannabis pharmacy.

(b) An individual may not serve as a pharmacy medical provider unless the department registers the individual as a pharmacy medical provider in accordance with Subsection (2).

(2) (a) The department shall, within 15 days after the day on which the department receives an application from a medical cannabis pharmacy on behalf of a prospective pharmacy medical provider, register and issue a pharmacy medical provider registration card to the prospective pharmacy medical provider if the medical cannabis pharmacy:

(i) provides to the department:

(A) the prospective pharmacy medical provider's name and address;

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3278 (B) the name and location of the licensed medical cannabis pharmacy where the
3279 prospective pharmacy medical provider seeks to act as a pharmacy medical provider;
3280 (C) a report detailing the completion of the continuing education requirement described
3281 in Subsection (3); and
3282 (D) evidence that the prospective pharmacy medical provider is a pharmacist who is
3283 licensed under Title 58, Chapter 17b, Pharmacy Practice Act, or a physician who has the
3284 authority to write a prescription and is licensed under Title 58, Chapter 67, Utah Medical
3285 Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; and
3286 (ii) pays a fee to the department in an amount that, subject to Subsection
3287 26-61a-109(5), the department sets in accordance with Section 63J-1-504.
3288 (b) The department may not register a qualified medical provider or a state central fill
3289 medical provider as a pharmacy medical provider.
3290 (3) (a) A pharmacy medical provider shall complete the continuing education described
3291 in this Subsection (3) in the following amounts:
3292 (i) as a condition precedent to registration, four hours; and
3293 (ii) as a condition precedent to renewal of the registration, four hours every two years.
3294 (b) In accordance with Subsection (3)(a), the pharmacy medical provider shall:
3295 (i) complete continuing education:
3296 (A) regarding the topics described in Subsection (3)(d); and
3297 (B) offered by the department under Subsection (3)(c) or an accredited or approved
3298 continuing education provider that the department recognizes as offering continuing education
3299 appropriate for the medical cannabis pharmacy practice; and
3300 (ii) make a continuing education report to the department in accordance with a process
3301 that the department establishes by rule, in accordance with Title 63G, Chapter 3, Utah
3302 Administrative Rulemaking Act, and in collaboration with the Division of Occupational and
3303 Professional Licensing and:
3304 (A) for a pharmacy medical provider who is licensed under Title 58, Chapter 17b,
3305 Pharmacy Practice Act, the Board of Pharmacy;

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3306 (B) for a pharmacy medical provider licensed under Title 58, Chapter 67, Utah Medical
 3307 Practice Act, the Physicians Licensing Board; and

3308 (C) for a pharmacy medical provider licensed under Title 58, Chapter 68, Utah
 3309 Osteopathic Medical Practice Act, the Osteopathic Physician and Surgeon's Licensing Board.

3310 (c) The department may, in consultation with the Division of Occupational and
 3311 Professional Licensing, develop the continuing education described in this Subsection (3).

3312 (d) The continuing education described in this Subsection (3) may discuss:

3313 (i) the provisions of this chapter;

3314 (ii) general information about medical cannabis under federal and state law;

3315 (iii) the latest scientific research on the endocannabinoid system and medical cannabis,
 3316 including risks and benefits;

3317 (iv) recommendations for medical cannabis as it relates to the continuing care of a
 3318 patient in pain management, risk management, potential addiction, and palliative care; or

3319 (v) best practices for recommending the form and dosage of a medical cannabis
 3320 product based on the qualifying condition underlying a medical cannabis recommendation.

3321 (4) (a) A pharmacy medical provider registration card expires two years after the day
 3322 on which the department issues or renews the card.

3323 (b) A pharmacy medical provider may renew the provider's registration card if the
 3324 provider:

3325 (i) is eligible for a pharmacy medical provider registration card under this section;

3326 (ii) certifies to the department in a renewal application that the information in
 3327 Subsection (2)(a) is accurate or updates the information;

3328 (iii) submits a report detailing the completion of the continuing education requirement
 3329 described in Subsection (3); and

3330 (iv) pays to the department a renewal fee in an amount that:

3331 (A) subject to Subsection 26-61a-109(5), the department sets in accordance with
 3332 Section 63J-1-504; and

3333 (B) may not exceed the cost of the relatively lower administrative burden of renewal in

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comparison to the original application process.

Section 72. Section **26-61a-501**, which is renumbered from Section 26-60b-501 is renumbered and amended to read:

Part 5. Medical Cannabis Pharmacy Operation

~~[26-60b-501].~~ **26-61a-501. Operating requirements -- General.**

(1) (a) A medical cannabis ~~[dispensary]~~ pharmacy shall operate;

(i) at the physical address provided to the department under Section 26-61a-301; and

(ii) in accordance with the operating plan provided to the department under ~~[Section 26-60b-303]~~ Section 26-61a-301 and, if applicable, 26-61a-304.

(b) A medical cannabis ~~[dispensary]~~ pharmacy shall notify the department before a change in the medical cannabis ~~[dispensary's]~~ pharmacy's physical address or operating plan.

(2) ~~[A]~~ An individual may not enter a medical cannabis ~~[dispensary shall operate]~~ pharmacy unless the individual:

(a) is at least 18 years old; and

~~[(a)]~~ (b) except as provided in Subsection (5), ~~[in a facility that is accessible only by an individual with]~~ possesses a valid:

(i) medical cannabis ~~[dispensary]~~ pharmacy agent registration card; or ~~[a]~~

(ii) medical cannabis card~~[-and]~~.

~~[(b) at the physical address provided to the department under Section 26-60b-301:]~~

(3) A medical cannabis ~~[dispensary]~~ pharmacy may not employ ~~[any person]~~ an individual who is younger than 21 years ~~[of age]~~ old.

(4) A medical cannabis ~~[dispensary shall conduct a background check into the criminal history of every person who will become an agent of the cannabis dispensary and]~~ pharmacy may not employ ~~[any person]~~ an individual who has been convicted of ~~[an offense that is]~~ a felony under ~~[either]~~ state or federal law.

(5) ~~[A]~~ Notwithstanding Subsection (2), a medical cannabis ~~[dispensary]~~ pharmacy may authorize an individual who is not a medical cannabis ~~[dispensary]~~ pharmacy agent to access the medical cannabis ~~[dispensary]~~ pharmacy if the medical cannabis ~~[dispensary]~~

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3362 pharmacy tracks and monitors the individual at all times while the individual is at the medical
3363 cannabis [dispensary] pharmacy and maintains a record of the individual's access.

3364 (6) A medical cannabis [dispensary] pharmacy shall operate in a facility that has:

3365 (a) a single, secure public entrance;

3366 (b) a security system with a backup power source that:

3367 (i) detects and records entry into the medical cannabis [dispensary] pharmacy; and

3368 (ii) provides notice of an unauthorized entry to law enforcement when the medical
3369 cannabis [dispensary] pharmacy is closed; and

3370 (c) a lock on ~~[any]~~ each area where the medical cannabis [dispensary] pharmacy stores
3371 cannabis or a cannabis product.

3372 (7) A medical cannabis [dispensary] pharmacy shall post, both clearly and
3373 conspicuously in the medical cannabis [dispensary] pharmacy, the limit on the purchase of
3374 cannabis described in Subsection ~~[26-60b-502(3)]~~ 26-61a-502(2).

3375 (8) A medical cannabis [dispensary] pharmacy may not allow any individual to
3376 consume cannabis on the property or premises of the medical cannabis [dispensary] pharmacy.

3377 (9) A medical cannabis [dispensary] pharmacy may not sell cannabis or a cannabis
3378 product without first indicating on the cannabis or cannabis product label the name of the
3379 medical cannabis [dispensary] pharmacy.

3380 (10) (a) Each medical cannabis pharmacy shall retain in the pharmacy's records the
3381 following information regarding each recommendation underlying a transaction:

3382 (i) the qualified medical provider's name, address, and telephone number;

3383 (ii) the patient's name and address;

3384 (iii) the date of issuance;

3385 (iv) dosing parameters or an indication that the qualified medical provider did not
3386 recommend specific dosing parameters; and

3387 (v) if the patient did not complete the transaction, the name of the medical cannabis
3388 cardholder who completed the transaction.

3389 (b) The medical cannabis pharmacy may not sell cannabis or a cannabis product unless

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3390 the cannabis or cannabis product has a label securely affixed to the container indicating the
3391 following minimum information:

3392 (i) the name, address, and telephone number of the medical cannabis pharmacy;
3393 (ii) the unique identification number that the medical cannabis pharmacy assigns;
3394 (iii) the date of the sale;
3395 (iv) the name of the patient;
3396 (v) the name of the qualified medical provider who recommended the medical cannabis
3397 treatment;

3398 (vi) directions for use and cautionary statements, if any;

3399 (vii) the amount dispensed and the cannabinoid content;

3400 (viii) the beyond use date; and

3401 (ix) any other requirements that the department determines, in consultation with the
3402 Division of Occupational and Professional Licensing and the Board of Pharmacy.

3403 (11) A pharmacy medical provider or medical cannabis pharmacy agent shall:

3404 (a) unless the medical cannabis cardholder has had a consultation under Subsection
3405 26-61a-502(4), verbally offer to a medical cannabis cardholder at the time of a purchase of
3406 cannabis, a cannabis product, or a medical cannabis device, personal, face-to-face counseling
3407 with the pharmacy medical provider who is a pharmacist; and

3408 (b) provide a telephone number or website by which the cardholder may contact a
3409 pharmacy medical provider for counseling.

3410 (12) (a) A medical cannabis pharmacy may create a medical cannabis disposal program
3411 that allows an individual to deposit unused or excess medical cannabis, cannabis residue from a
3412 medical cannabis device, or medical cannabis product in a locked box or other secure
3413 receptacle within the medical cannabis pharmacy.

3414 (b) A medical cannabis pharmacy with a disposal program described in Subsection
3415 (12)(a) shall ensure that only a medical cannabis pharmacy agent can access deposited medical
3416 cannabis or medical cannabis products.

3417 (c) A medical cannabis pharmacy shall dispose of any deposited medical cannabis or

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3418 medical cannabis products by:

3419 (i) rendering the deposited medical cannabis or medical cannabis products unusable
 3420 and unrecognizable before transporting deposited medical cannabis or medical cannabis
 3421 products from the medical cannabis pharmacy; and

3422 (ii) disposing of the deposited medical cannabis or medical cannabis products in
 3423 accordance with:

3424 (A) federal and state law, rules, and regulations related to hazardous waste;

3425 (B) the Resource Conservation and Recovery Act, 42 U.S.C. Sec. 6991 et seq.;

3426 (C) Title 19, Chapter 6, Part 5, Solid Waste Management Act; and

3427 (D) other regulations that the department makes in accordance with Title 63G, Chapter
 3428 3, Utah Administrative Rulemaking Act.

3429 (13) The department shall establish by rule, in accordance with Title 63G, Chapter 3,
 3430 Utah Administrative Rulemaking Act, protocols for a recall of cannabis and cannabis products
 3431 by a medical cannabis pharmacy.

3432 Section 73. Section **26-61a-502**, which is renumbered from Section 26-60b-502 is
 3433 renumbered and amended to read:

3434 **[26-60b-502]. 26-61a-502. Dispensing -- Amount a medical cannabis**
 3435 **pharmacy may dispense -- Reporting -- Form of cannabis or cannabis product.**

3436 (1) (a) A medical cannabis [dispensary] pharmacy may [only] not sell a product other
 3437 than, subject to this chapter:

3438 [~~(a)~~] (i) cannabis in a medicinal dosage form that the medical cannabis pharmacy
 3439 acquired from a cannabis processing facility that is licensed under Section [4-41a-201](#);

3440 [~~(b)~~] (ii) a cannabis product in a medicinal dosage form that the medical cannabis
 3441 pharmacy acquired from a cannabis processing facility that is licensed under Section
 3442 [4-41a-201](#);

3443 [~~(c)~~] (iii) a medical cannabis device; or

3444 [~~(d)~~] (iv) educational [~~materials~~] material related to the medical use of cannabis.

3445 [~~(2)~~] (b) A medical cannabis [dispensary] pharmacy may only sell [~~the items~~] an item

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3446 listed in Subsection (1)(a) to an individual with:

3447 (i) a medical cannabis card [issued by the department.]; and

3448 (ii) corresponding identification that is a valid United States federal- or state-issued
 3449 photo identification, including a driver license, a United States passport, a United States
 3450 passport card, or a United States military identification card.

3451 (c) Notwithstanding Subsection (1)(a), a medical cannabis pharmacy may not sell a
 3452 cannabis-based drug that the United States Food and Drug Administration has approved.

3453 ~~[(3)]~~ (2) A medical cannabis [dispensary] pharmacy may not dispense [on behalf of any
 3454 one individual with];

3455 (a) to a medical cannabis [card,] cardholder in any one [14-day] 12-day period, more
 3456 than the lesser of:

3457 (i) an amount sufficient to provide 14 days of treatment based on the dosing parameters
 3458 that the relevant qualified medical provider recommends; or

3459 ~~[(a)]~~ (ii) (A) [an amount] 56 grams by weight of unprocessed cannabis that [exceeds
 3460 two ounces by weight] is in a medicinal dosage form and that carries a label clearly displaying
 3461 the amount of tetrahydrocannabinol and cannabidiol in the cannabis; or

3462 ~~[(b)]~~ (B) an amount of cannabis products that is in a medicinal dosage form and that
 3463 contains, in total, greater than 10 grams of total composite tetrahydrocannabinol [or
 3464 cannabidiol.];

3465 (b) to a medical cannabis cardholder whose primary residence is located more than 100
 3466 miles from the nearest medical cannabis pharmacy or local health department, in any one
 3467 28-day period, more than the lesser of:

3468 (i) an amount sufficient to provide 30 days of treatment based on the dosing parameters
 3469 that the relevant qualified medical provider recommends; or

3470 (ii) (A) 113 grams by weight of unprocessed cannabis that is in a medicinal dosage
 3471 form and that carries a label clearly displaying the amount of tetrahydrocannabinol and
 3472 cannabidiol in the cannabis; or

3473 (B) an amount of cannabis products that is in a medicinal dosage form and that

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3474 contains, in total, greater than 20 grams of total composite tetrahydrocannabinol; or
 3475 (c) to an individual whose qualified medical provider did not recommend dosing
 3476 parameters, until the individual consults with the pharmacy medical provider in accordance
 3477 with Subsection (4), any cannabis or cannabis products.

3478 [~~(4)~~] (3) An individual with a medical cannabis card may not purchase;
 3479 (a) more cannabis or cannabis products than the amounts designated in Subsection
 3480 [~~(3)~~] (2) in any one [~~14-day~~] 12-day period[-]; or
 3481 (b) if the relevant qualified medical provider did not recommend dosing parameters,
 3482 until the individual consults with the pharmacy medical provider in accordance with
 3483 Subsection (4), any cannabis or cannabis products.

3484 (4) If a qualified medical provider recommends treatment with medical cannabis or a
 3485 cannabis product but does not provide dosing parameters:

3486 (a) the qualified medical provider shall document in the recommendation:
 3487 (i) an evaluation of the qualifying condition underlying the recommendation;
 3488 (ii) prior treatment attempts with cannabis and cannabis products; and
 3489 (iii) the patient's current medication list; and
 3490 (b) before the relevant medical cannabis cardholder may obtain cannabis in a medicinal
 3491 dosage form or a cannabis product in a medicinal dosage form, the pharmacy medical provider
 3492 shall:

3493 (i) review pertinent medical records, including the qualified medical provider
 3494 documentation described in Subsection (4)(a); and
 3495 (ii) after completing the review described in Subsection (4)(b)(i) and consulting with
 3496 the recommending qualified medical provider as needed, determine the best course of treatment
 3497 through consultation with the cardholder regarding:

3498 (A) the patient's qualifying condition underlying the recommendation from the
 3499 qualified medical provider;
 3500 (B) indications for available treatments;
 3501 (C) dosing parameters; and

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3502 (D) potential adverse reactions.

3503 (5) A medical cannabis [~~dispensary~~] pharmacy shall:

3504 (a) (i) access the state electronic verification system before dispensing cannabis or a
 3505 cannabis product to [~~an individual with~~] a medical cannabis [~~card~~] cardholder in order to
 3506 determine if the [~~individual~~] cardholder or, where applicable, the associated patient has met the
 3507 maximum amount of cannabis or cannabis products described in Subsection [~~(3)~~] (2); and

3508 (ii) if the verification in Subsection (5)(a)(i) indicates that the individual has met the
 3509 maximum amount described in Subsection (2):

3510 (A) decline the sale; and

3511 (B) notify the qualified medical provider who made the underlying recommendation;

3512 (b) submit a record to the state electronic verification system each time the medical
 3513 cannabis [~~dispensary~~] pharmacy dispenses cannabis or a cannabis product to [~~an individual~~
 3514 ~~with~~] a medical cannabis [~~card~~] cardholder;

3515 (c) package any cannabis or cannabis product that is in a blister pack in a container
 3516 that:

3517 (i) complies with Subsection [4-41a-602\(2\)](#);

3518 (ii) is tamper-resistant and tamper-evident; and

3519 (iii) opaque; and

3520 (d) for a product that is a cube that is designed for ingestion through chewing or
 3521 holding in the mouth for slow dissolution, include a separate, off-label warning about the risks
 3522 of over-consumption.

3523 (6) (a) Except as provided in Subsection (6)(b), a medical cannabis [~~dispensary~~]
 3524 pharmacy may not sell medical cannabis in the form of a cigarette or a medical cannabis device
 3525 that is intentionally designed or constructed to resemble a cigarette.

3526 (b) A medical cannabis [~~dispensary~~] pharmacy may sell a medical cannabis device that
 3527 warms cannabis material into a vapor without the use of a flame and that delivers cannabis to
 3528 an individual's respiratory system.

3529 (7) A medical cannabis [~~dispensary~~] pharmacy may not give [~~to an individual with a~~

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3530 ~~medical cannabis card~~], at no cost, a product that the medical cannabis [~~dispensary~~] pharmacy
 3531 is allowed to sell under Subsection (1).

3532 (8) The department may impose a uniform fee on each medical cannabis cardholder
 3533 transaction in a medical cannabis pharmacy in an amount that, subject to Subsection
 3534 26-61a-109(5), the department sets in accordance with Section 63J-1-504.

3535 Section 74. Section **26-61a-503** is enacted to read:

3536 **26-61a-503. Partial filling.**

3537 (1) As used in this section, "partially fill" means to provide less than the full amount of
 3538 cannabis or cannabis product that the qualified medical provider recommends, if the qualified
 3539 medical provider recommended specific dosing parameters.

3540 (2) A pharmacy medical provider may partially fill a recommendation for a medical
 3541 cannabis treatment at the request of the qualified medical provider who issued the medical
 3542 cannabis treatment recommendation or the medical cannabis cardholder.

3543 (3) The department shall make rules, in collaboration with the Division of
 3544 Occupational and Professional Licensing and the Board of Pharmacy and in accordance with
 3545 Title 63G, Chapter 3, Utah Administrative Rulemaking Act, specifying how to record the date,
 3546 quantity supplied, and quantity remaining of a partially filled medical cannabis treatment
 3547 recommendation.

3548 (4) A pharmacy medical provider who is a pharmacist may, upon the request of a
 3549 medical cannabis cardholder, determine different dosing parameters, subject to the dosing
 3550 limits in Subsection 26-61a-502(2), to fill the quantity remaining of a partially filled medical
 3551 cannabis treatment recommendation if:

3552 (a) the pharmacy medical provider determined dosing parameters for the partial fill
 3553 under Subsection 26-61a-502(4); and

3554 (b) the medical cannabis cardholder reports that:

3555 (i) the partial fill did not substantially affect the qualifying condition underlying the
 3556 medical cannabis recommendation; or

3557 (ii) the patient experienced an adverse reaction to the partial fill or was otherwise

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3558 unable to successfully use the partial fill.

3559 Section 75. Section **26-61a-504**, which is renumbered from Section 26-60b-503 is
3560 renumbered and amended to read:

3561 ~~[26-60b-503].~~ **26-61a-504. Inspections.**

3562 (1) Each medical cannabis pharmacy shall maintain the pharmacy's medical cannabis
3563 treatment recommendation files and other records in accordance with this chapter, department
3564 rules, and the federal Health Insurance Portability and Accountability Act of 1996, Pub. L. No.
3565 104-191, 110 Stat. 1936, as amended.

3566 (2) The department may inspect the records and facility of a medical cannabis
3567 [dispensary] pharmacy at any time during business hours in order to determine if the medical
3568 cannabis [dispensary] pharmacy complies with [the licensing requirements of this part] this
3569 chapter.

3570 (3) An inspection under this section may include:

3571 (a) inspection of a site, facility, vehicle, book, record, paper, document, data, and other
3572 physical or electronic information;

3573 (b) questioning of any relevant individual; or

3574 (c) inspection of equipment, an instrument, a tool, or machinery, including a container
3575 or label.

3576 (4) In making an inspection under this section, the department may freely access any
3577 area and review and make copies of a book, record, paper, document, data, or other physical or
3578 electronic information, including financial data, sales data, shipping data, pricing data, and
3579 employee data.

3580 (5) Failure to provide the department or the department's authorized agents immediate
3581 access to records and facilities during business hours in accordance with this section may result
3582 in:

3583 (a) the imposition of a civil monetary penalty that the department sets in accordance
3584 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

3585 (b) license or registration suspension or revocation; or

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(c) an immediate cessation of operations under a cease and desist order that the department issues.

Section 76. Section **26-61a-505**, which is renumbered from Section 26-60b-504 is renumbered and amended to read:

~~[26-60b-504].~~ **26-61a-505. Advertising.**

(1) Except as provided in Subsections (2) and (3), a medical cannabis ~~[dispensary]~~ pharmacy may not advertise in any medium.

(2) A medical cannabis ~~[dispensary]~~ pharmacy may use signage on the outside of the medical cannabis ~~[dispensary]~~ pharmacy that includes only:

(a) the medical cannabis ~~[dispensary's]~~ pharmacy's name and hours of operation; and

(b) a green cross.

(3) A medical cannabis ~~[dispensary]~~ pharmacy may maintain a website that includes information about:

(a) the location and hours of operation of the medical cannabis ~~[dispensary]~~ pharmacy;

(b) ~~[the products and services]~~ a product or service available at the medical cannabis ~~[dispensary]~~ pharmacy;

(c) personnel affiliated with the medical cannabis ~~[dispensary]~~ pharmacy;

(d) best practices that the medical cannabis ~~[dispensary]~~ pharmacy upholds; and

(e) educational ~~[materials]~~ material related to the medical use of cannabis.

Section 77. Section **26-61a-506**, which is renumbered from Section 26-60b-505 is renumbered and amended to read:

~~[26-60b-505].~~ **26-61a-506. Cannabis, cannabis product, or medical cannabis device transportation.**

(1) ~~[Except for an individual with a valid medical cannabis card, an individual]~~ Only the following individuals may ~~[not]~~ transport cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device ~~[unless the individual is]~~ under this chapter:

(a) a registered medical cannabis ~~[production establishment]~~ pharmacy agent; ~~[or]~~

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3614 (b) a registered ~~[cannabis dispensary]~~ state central fill agent[-];

3615 (c) a courier for a state central fill shipment described in Section 26-61a-605; or

3616 (d) a medical cannabis cardholder who is transporting a medical cannabis treatment

3617 that the cardholder is authorized to transport.

3618 (2) Except for an individual with a valid medical cannabis card~~[-, an individual]~~ under

3619 this chapter who is transporting a medical cannabis~~[-, a cannabis product, or a medical cannabis~~

3620 ~~device]~~ treatment that the cardholder is authorized to transport, an individual described in

3621 Subsection (1) shall possess a transportation manifest that:

3622 (a) includes a unique identifier that links the cannabis, cannabis product, or medical

3623 cannabis device to a relevant inventory control system;

3624 (b) includes origin and destination information for ~~[any]~~ cannabis, a cannabis product,

3625 or a medical cannabis device that the individual is transporting; and

3626 (c) ~~[indicates]~~ identifies the departure and arrival times and locations of the individual

3627 transporting the cannabis, cannabis product, or medical cannabis device.

3628 (3) (a) In addition to the requirements in Subsections (1) and (2), the department may

3629 establish[-] by rule ~~[made]~~, in collaboration with the Division of Occupational and Professional

3630 Licensing and the Board of Pharmacy and in accordance with Title 63G, Chapter 3, Utah

3631 Administrative Rulemaking Act, requirements for transporting cannabis in a medicinal dosage

3632 form, a cannabis product in a medicinal dosage form, or a medical cannabis device to ensure

3633 that [are related to safety for human] the cannabis [or], cannabis product, or medical cannabis

3634 device remains safe for human consumption.

3635 (b) The transportation described in Subsection (3)(a) is limited to transportation:

3636 (i) between a medical cannabis pharmacy and another medical cannabis pharmacy; and

3637 (ii) between the state central fill medical cannabis pharmacy and:

3638 (A) another state central fill medical cannabis pharmacy location; or

3639 (B) a local health department.

3640 (4) (a) ~~[An individual who transports cannabis, a cannabis product, or a medical~~

3641 ~~cannabis device]~~ It is unlawful for a registered medical cannabis pharmacy agent, a registered

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3642 state central fill agent, or a courier described in Section 26-61a-605 to make a transport
 3643 described in this section with a manifest that does not meet the requirements of ~~[Subsection (2)~~
 3644 ~~is:] this section.~~

3645 (b) Except as provided in Subsection (4)(d), an agent or courier who violates
 3646 Subsection (4)(a) is:

3647 ~~[(a)]~~ (i) guilty of an infraction; and

3648 ~~[(b)]~~ (ii) subject to a \$100 fine.

3649 (c) An individual who is guilty of a violation described in Subsection (4)(b) is not
 3650 guilty of a violation of Title 58, Chapter 37, Utah Controlled Substances Act, for the conduct
 3651 underlying the violation described in Subsection (4)(b).

3652 (d) If the individual described in Subsection (4)(a) is transporting more cannabis,
 3653 cannabis product, or medical cannabis devices than the manifest identifies, except for a de
 3654 minimis administrative error:

3655 (i) this chapter does not apply; and

3656 (ii) the individual is subject to penalties under Title 58, Chapter 37, Utah Controlled
 3657 Substances Act.

3658 Section 78. Section ~~26-61a-507~~, which is renumbered from Section 26-60b-506 is
 3659 renumbered and amended to read:

3660 ~~[26-60b-506].~~ **26-61a-507. Local control.**

3661 ~~[(1) A municipality or county may not enact a zoning ordinance that prohibits a~~
 3662 ~~cannabis dispensary from operating in a location within the municipality's or county's~~
 3663 ~~jurisdiction on the sole basis that the cannabis dispensary is a cannabis dispensary.]~~

3664 (1) (a) (i) Except as provided in Subsection (1)(a)(ii), to be eligible to obtain or
 3665 maintain a license under Section 26-61a-301, a person shall demonstrate that the intended
 3666 medical cannabis pharmacy location is located at least:

3667 (A) 600 feet from a community location's property boundary following the shortest
 3668 route of ordinary pedestrian travel;

3669 (B) 200 feet from the patron entrance to the community location's property boundary;

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3672 (ii) A municipal or county land use authority may recommend in writing that the
 3673 department waive the community location proximity requirement described in Subsection
 3674 (1)(a)(i).

3675 [(2)] (b) (i) A municipality or county may not deny or revoke a land use permit [or
 3676 license] to operate a medical cannabis [dispensary] pharmacy on the sole basis that the
 3677 applicant or medical cannabis [dispensary] pharmacy violates [a] federal law [of] regarding the
 3678 [United States] legal status.

3679 (ii) A municipality or county may not deny or revoke a business license to operate a
 3680 medical cannabis pharmacy on the sole basis that the applicant or medical cannabis pharmacy
 3681 violates federal law regarding the legal status of cannabis.

3682 [(3)] (2) A municipality or county may enact [ordinances] an ordinance that:

3683 (a) is not in conflict with this chapter [governing]; and

3684 (b) governs the time, place, [and] or manner of medical cannabis [dispensary]
 3685 pharmacy operations in the municipality or county.

3686 Section 79. Section **26-61a-601** is enacted to read:

3687 **Part 6. State Central Fill Medical Cannabis Pharmacy**

3688 **26-61a-601. Department to establish state central fill medical cannabis pharmacy**

3689 **-- Duties -- Pharmacy medical provider registration -- Continuing education.**

3690 (1) On or before July 1, 2020, the department shall establish or contract to establish, in
 3691 accordance with Title 63G, Chapter 6a, Utah Procurement Code, a state central fill medical
 3692 cannabis pharmacy as described in this section.

3693 (2) The state central fill medical cannabis pharmacy shall:

3694 (a) procure cannabis that a cannabis processing facility processes into a medicinal
 3695 dosage form;

3696 (b) prepare cannabis in medicinal dosage form, a cannabis product in medicinal dosage
 3697 form, or a medical cannabis device for shipment to a medical cannabis cardholder under a

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3698 qualified medical provider's recommendation to address a qualifying condition;
3699 (c) transport a state central fill shipment, in accordance with Section 26-61a-605, to the
3700 relevant local health department for distribution, in accordance with Section 26-61a-607;
3701 (d) (i) (A) if the state establishes the state central fill medical cannabis pharmacy,
3702 process and accept payment for a transaction involving a state central fill shipment; or
3703 (B) if the state establishes the state central fill medical cannabis pharmacy by contract,
3704 process prepaid requests for a state central fill shipment from the department; and
3705 (ii) deposit funds that the state central fill medical cannabis pharmacy collects under
3706 Subsection (2)(d)(i) into the Qualified Distribution Enterprise Fund created in Section
3707 26-61a-110.
3708 (3) (a) An individual may not enter a state central fill medical cannabis pharmacy
3709 location unless:
3710 (i) the individual is a state central fill agent or an employee of the state central fill
3711 medical cannabis pharmacy;
3712 (ii) the individual is an employee of the department; or
3713 (iii) a state central fill agent escorts the individual at all times.
3714 (b) An individual who violates Subsection (3)(a) is:
3715 (i) guilty of an infraction; and
3716 (ii) subject to a \$100 fine.
3717 (c) An individual who is guilty of a violation described in Subsection (3)(b) is not
3718 guilty of a violation of Title 58, Chapter 37, Utah Controlled Substances Act, for the conduct
3719 underlying the violation described in Subsection (3)(b).
3720 (4) (a) The state central fill medical cannabis pharmacy:
3721 (i) shall employ at least one pharmacist who is licensed under Title 58, Chapter 17b,
3722 Pharmacy Practice Act, as a state central fill medical provider;
3723 (ii) may employ a physician who has the authority to write a prescription and is
3724 licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah
3725 Osteopathic Medical Practice Act, as a state central fill medical provider;

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3726 (iii) shall ensure that a state central fill medical provider described in Subsection
3727 (4)(a)(i) works onsite at each location during all business hours;
3728 (iv) shall designate one state central fill medical provider described in Subsection
3729 (4)(a)(i) as the pharmacist-in-charge, as that term is defined in Section 58-17b-102, to oversee
3730 the operation of and generally supervise the state central fill medical cannabis pharmacy; and
3731 (v) may establish more than one location in which the state central fill medical
3732 cannabis pharmacy operates if the department determines, after an analysis of the current and
3733 anticipated market for cannabis in a medicinal dosage form and cannabis products in a
3734 medicinal dosage form, including costs and logistical issues in transportation of state central
3735 fill shipments, that multiple central fill locations are necessary to provide an adequate supply of
3736 state central fill shipments to local health departments for distribution to recipient medical
3737 cannabis cardholders.
3738 (b) An individual may not serve as a state central fill medical provider unless the
3739 department registers the individual as a state central fill medical provider.
3740 (5) (a) The department shall, within 15 days after the day on which the department
3741 receives an application from the state central fill medical cannabis pharmacy on behalf of a
3742 prospective state central fill medical provider, register and issue a state central fill medical
3743 provider registration card to the prospective state central fill medical provider if the state
3744 central fill medical cannabis pharmacy provides to the department:
3745 (i) the prospective state central fill medical provider's name and address; and
3746 (ii) evidence that the prospective state central fill medical provider is:
3747 (A) a pharmacist who is licensed under Title 58, Chapter 17b, Pharmacy Practice Act;
3748 or
3749 (B) a physician who has the authority to write a prescription and is licensed under Title
3750 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical
3751 Practice Act.
3752 (b) The department may not register a qualified medical provider or a pharmacy
3753 medical provider as a state central fill medical provider.

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3754 (6) (a) A state central fill medical provider shall complete the continuing education
 3755 described in this Subsection (6) in the following amounts:

3756 (i) as a condition precedent to registration, four hours; and
 3757 (ii) as a condition precedent to renewal, four hours every two years.

3758 (b) In accordance with Subsection (6)(a), the state central fill medical provider shall:
 3759 (i) complete continuing education:
 3760 (A) regarding the topics described in Subsection (6)(d); and
 3761 (B) offered by the department under Subsection (6)(c) or an accredited or approved
 3762 continuing education provider that the department recognizes as offering continuing education
 3763 appropriate for the medical cannabis pharmacy practice; and

3764 (ii) make a continuing education report to the department in accordance with a process
 3765 that the department establishes by rule, in accordance with Title 63G, Chapter 3, Utah
 3766 Administrative Rulemaking Act, and in collaboration with the Division of Occupational and
 3767 Professional Licensing and:

3768 (A) for a state central fill medical provider who is licensed under Title 58, Chapter 17b,
 3769 Pharmacy Practice Act, the Board of Pharmacy;

3770 (B) for a state central fill medical provider licensed under Title 58, Chapter 67, Utah
 3771 Medical Practice Act, the Physicians Licensing Board; and

3772 (C) for a state central fill medical provider licensed under Title 58, Chapter 68, Utah
 3773 Osteopathic Medical Practice Act, the Osteopathic Physician and Surgeon's Licensing Board.

3774 (c) The department may, in consultation with the Division of Occupational and
 3775 Professional Licensing, develop the continuing education described in this Subsection (6).

3776 (d) The continuing education described in this Subsection (6) may discuss:
 3777 (i) the provisions of this chapter;
 3778 (ii) general information about medical cannabis under federal and state law;
 3779 (iii) the latest scientific research on the endocannabinoid system and medical cannabis,
 3780 including risks and benefits;

3781 (iv) recommendations for medical cannabis as it relates to the continuing care of a

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3782 patient in pain management, risk management, potential addiction, and palliative care; or
 3783 (v) best practices for recommending the form and dosage of medical cannabis products
 3784 based on the qualifying condition underlying the medical cannabis recommendation.

3785 (7) (a) A state central fill medical provider registration card expires two years after the
 3786 day on which the department issues or renews the card.

3787 (b) A state central fill medical provider may renew the provider's registration card if
 3788 the provider:

3789 (i) is eligible for a state central fill medical provider registration card under this
 3790 section;

3791 (ii) certifies to the department in a renewal application that the information in
 3792 Subsection (5) is accurate or updates the information; and

3793 (iii) submits a report detailing the completion of the continuing education requirement
 3794 described in Subsection (6).

3795 Section 80. Section **26-61a-602** is enacted to read:

3796 **26-61a-602. State central fill agent -- Background check -- Registration card --**
 3797 **Rebuttable presumption.**

3798 (1) An individual may not serve as a state central fill agent unless:

3799 (a) the individual is an employee of the state central fill medical cannabis pharmacy;
 3800 and

3801 (b) the department registers the individual as a state central fill agent.

3802 (2) (a) The department shall, within 15 days after the day on which the department
 3803 receives a complete application from the state central fill medical cannabis pharmacy on behalf
 3804 of a prospective state central fill agent, register and issue a state central fill agent registration
 3805 card to the prospective agent if the state central fill medical cannabis pharmacy:

3806 (i) provides to the department:

3807 (A) the prospective agent's name and address;

3808 (B) the submission required under Subsection (2)(b); and

3809 (ii) as reported under Subsection (2)(b), has not been convicted under state or federal

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3810 law of:

3811 (A) a felony; or

3812 (B) after the effective date of this bill, a misdemeanor for drug distribution.

3813 (b) Each prospective agent described in Subsection (2)(a) shall:

3814 (i) submit to the department:

3815 (A) a fingerprint card in a form acceptable to the Department of Public Safety; and

3816 (B) a signed waiver in accordance with Subsection 53-10-108(4) acknowledging the

3817 registration of the prospective agent's fingerprints in the Federal Bureau of Investigation Next

3818 Generation Identification System's Rap Back Service; and

3819 (ii) consent to a fingerprint background check by:

3820 (A) the Bureau of Criminal Identification; and

3821 (B) the Federal Bureau of Investigation.

3822 (c) The Bureau of Criminal Identification shall:

3823 (i) check the fingerprints the prospective agent submits under Subsection (2)(b) against

3824 the applicable state, regional, and national criminal records databases, including the Federal

3825 Bureau of Investigation Next Generation Identification System;

3826 (ii) report the results of the background check to the department;

3827 (iii) maintain a separate file of fingerprints that prospective agents submit under

3828 Subsection (2)(b) for search by future submissions to the local and regional criminal records

3829 databases, including latent prints;

3830 (iv) request that the fingerprints be retained in the Federal Bureau of Investigation Next

3831 Generation Identification System's Rap Back Service for search by future submissions to

3832 national criminal records databases, including the Next Generation Identification System and

3833 latent prints; and

3834 (v) establish a privacy risk mitigation strategy to ensure that the department only

3835 receives notifications for an individual with whom the department maintains an authorizing

3836 relationship.

3837 (d) The department shall:

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3838 (i) assess an individual who submits fingerprints under Subsection (2)(b) a fee in an
3839 amount that the department sets in accordance with Section 63J-1-504 for the services that the
3840 Bureau of Criminal Identification or another authorized agency provides under this section; and
3841 (ii) remit the fee described in Subsection (2)(d) to the Bureau of Criminal
3842 Identification.

3843 (3) (a) A state central fill agent shall comply with a certification standard that the
3844 department develops, in collaboration with the Division of Occupational and Professional
3845 Licensing and the Board of Pharmacy, or a third-party certification standard that the department
3846 designates by rule, in collaboration with the Division of Occupational and Professional
3847 Licensing and the Board of Pharmacy and in accordance with Title 63G, Chapter 3, Utah
3848 Administrative Rulemaking Act.

3849 (b) The department shall ensure that the certification standard described in Subsection
3850 (3)(a) includes continuing education in:

3851 (i) Utah medical cannabis law;
3852 (ii) the state central fill medical cannabis pharmacy shipment process; and
3853 (iii) state central fill agent best practices.

3854 (4) The department may revoke or refuse to issue the state central fill agent registration
3855 card of an individual who:

3856 (a) violates the requirements of this chapter; or
3857 (b) is convicted under state or federal law of:

3858 (i) a felony; or
3859 (ii) after the effective date of this bill, a misdemeanor for drug distribution.

3860 (5) (a) A state central fill agent registration card expires two years after the day on
3861 which the department issues or renews the card.

3862 (b) A state central fill agent may renew the agent's registration card if the agent:

3863 (i) is eligible for a state central fill registration card under this section; and
3864 (ii) certifies to the department in a renewal application that the information in
3865 Subsection (2)(a) is accurate or updates the information.

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(6) A state central fill agent who the department registers under this section shall carry the individual's state central fill agent registration card with the individual at all times when:

(a) the individual is on the premises of the state central fill medical cannabis pharmacy; and

(b) the individual is transporting cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device between a cannabis production establishment and the state central fill medical cannabis pharmacy.

(7) If an individual handling cannabis, a cannabis product, or a medical cannabis device handles the cannabis, cannabis product, or medical cannabis device in compliance with Subsection (6):

(a) there is a rebuttable presumption that the individual possesses the cannabis, cannabis product, or medical cannabis device legally; and

(b) there is no probable cause, based solely on the individual's handling of the cannabis in medicinal dosage form, cannabis product in medicinal dosage form, or medical cannabis device, that the individual is engaging in illegal activity.

(8) (a) An individual who violates Subsection (6) is:

(i) guilty of an infraction; and

(ii) subject to a \$100 fine.

(b) An individual who is guilty of a violation described in Subsection (8)(a) is not guilty of a violation of Title 58, Chapter 37, Utah Controlled Substances Act, for the conduct underlying the violation described in Subsection (8)(a).

Section 81. Section **26-61a-603** is enacted to read:

26-61a-603. Recommendation.

(1) When an individual receives a recommendation for a medical cannabis treatment from the individual's qualified medical provider, the individual may initiate a shipment from the state central fill medical cannabis pharmacy to a local health department by:

(a) contacting the state central fill medical cannabis pharmacy directly; or

(b) requesting that the qualified medical provider initiate the shipment through the state

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3894 electronic verification system.

3895 (2) Upon receiving a request to prepare a shipment under Subsection (1), a state central
3896 fill agent shall:

3897 (a) verify the shipment information using the state electronic verification system;

3898 (b) process payment, including contacting the medical cannabis cardholder to complete
3899 payment if necessary;

3900 (c) prepare the shipment in accordance with Section [26-61a-604](#);

3901 (d) record the preparation of the shipment in the electronic verification system; and

3902 (e) place the shipment for transportation in accordance with Section [26-61a-605](#).

3903 Section 82. Section **26-61a-604** is enacted to read:

3904 **26-61a-604. State central fill shipment preparation.**

3905 (1) (a) The state central fill medical cannabis pharmacy may not prepare or ship to a
3906 local health department a product other than:

3907 (i) cannabis in medicinal dosage form that the state central fill medical cannabis
3908 pharmacy acquired from a cannabis processing facility that is licensed under Section
3909 [4-41a-201](#);

3910 (ii) a cannabis product in medicinal dosage form that the state central fill medical
3911 cannabis pharmacy acquired from a cannabis processing facility that is licensed under Section
3912 [4-41a-201](#);

3913 (iii) a medical cannabis device; or

3914 (iv) educational material related to the medical use of cannabis.

3915 (b) The state central fill medical cannabis pharmacy may only sell or ship an item listed
3916 in Subsection (1)(a) in response to a request for shipment described in Subsection
3917 [26-61a-603](#)(1).

3918 (c) Notwithstanding Subsection (1)(a), the state central fill medical cannabis pharmacy
3919 may not sell a cannabis-based drug that the United States Food and Drug Administration has
3920 approved.

3921 (2) The state central fill medical cannabis pharmacy may not prepare a shipment:

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3922 (a) for a medical cannabis cardholder in any one 12-day period, more than the lesser of:
3923 (i) an amount sufficient to provide 14 days of treatment based on the dosing parameters
3924 that the relevant qualified medical provider recommends; or
3925 (ii) (A) 56 grams by weight of unprocessed cannabis that is in a medicinal dosage form
3926 and that carries a label clearly displaying the amount of tetrahydrocannabinol and cannabidiol
3927 in the cannabis; or
3928 (B) an amount of cannabis products that is in a medicinal dosage form and that
3929 contains, in total, greater than 10 grams of total composite tetrahydrocannabinol;
3930 (b) to a medical cannabis cardholder whose primary residence is located more than 100
3931 miles from the nearest medical cannabis pharmacy or local health department, in any one
3932 28-day period, more than the lesser of:
3933 (i) an amount sufficient to provide 30 days of treatment based on the dosing parameters
3934 that the relevant qualified medical provider recommends; or
3935 (ii) (A) 113 grams by weight of unprocessed cannabis that is in a medicinal dosage
3936 form and that carries a label clearly displaying the amount of tetrahydrocannabinol and
3937 cannabidiol in the cannabis; or
3938 (B) an amount of cannabis products that is in a medicinal dosage form and that
3939 contains, in total, greater than 20 grams of total composite tetrahydrocannabinol; or
3940 (c) for an individual whose qualified medical provider did not recommend dosing
3941 parameters, any cannabis or cannabis product, until the individual consults with the state
3942 central fill medical provider in accordance with Subsection (4).
3943 (3) A medical cannabis cardholder may not receive a state central fill shipment
3944 containing:
3945 (a) more cannabis or cannabis products than the amounts designated in Subsection (2)
3946 in any one 12-day period; or
3947 (b) if the relevant qualified medical provider did not recommend dosing parameters,
3948 any cannabis or cannabis product, until the cardholder consults with the state central fill
3949 medical provider in accordance with Subsection (4).

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3950 (4) If a qualified medical provider recommends treatment with medical cannabis or a
3951 cannabis product but does not provide dosing parameters:
3952 (a) the qualified medical provider shall document in the recommendation:
3953 (i) an evaluation of the qualifying condition underlying the recommendation;
3954 (ii) prior treatment attempts with cannabis and cannabis products; and
3955 (iii) the patient's current medication list; and
3956 (b) before the relevant medical cannabis cardholder may receive a state central fill
3957 shipment, the state central fill medical provider shall:
3958 (i) review pertinent medical records, including the qualified medical provider
3959 documentation described in Subsection (4)(a); and
3960 (ii) after completing the review described in Subsection (4)(b)(i) and consulting with
3961 the recommending qualified medical provider as needed, determine the best course of treatment
3962 through consultation with the cardholder regarding:
3963 (A) the patient's qualifying condition underlying the recommendation from the
3964 qualified medical provider;
3965 (B) indications for available treatments;
3966 (C) dosing parameters; and
3967 (D) potential adverse reactions.
3968 (5) The state central fill medical cannabis pharmacy shall:
3969 (a) (i) access the state electronic verification system before preparing a shipment of
3970 cannabis or a cannabis product to determine if the medical cannabis cardholder or, where
3971 applicable, the associated patient has met the maximum amount of cannabis or cannabis
3972 product described in Subsection (2); and
3973 (ii) if the verification in Subsection (5)(a)(i) indicates that the individual has met the
3974 maximum amount described in Subsection (2):
3975 (A) decline the request to prepare the shipment; and
3976 (B) notify the qualified medical provider that made the recommendation;
3977 (b) submit a record to the state electronic verification system each time the state central

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3978 fill medical cannabis pharmacy prepares and ships a shipment of cannabis, a cannabis product,
3979 or a medical cannabis device;

3980 (c) package any cannabis or cannabis product that is in a blister pack in a container
3981 that:

3982 (i) complies with Subsection 4-41a-602(2);

3983 (ii) is tamper-resistant and tamper-evident; and

3984 (iii) is opaque; and

3985 (d) for any product that is a cube that is designed for ingestion through chewing or
3986 holding in the mouth for slow dissolution, include a separate, off-label warning about the risks
3987 of over-consumption.

3988 (6) (a) Except as provided in Subsection (6)(b), the state central fill medical cannabis
3989 pharmacy may not sell medical cannabis in the form of a cigarette or a medical cannabis device
3990 that is intentionally designed or constructed to resemble a cigarette.

3991 (b) The state central fill medical cannabis pharmacy may sell a medical cannabis
3992 device that warms cannabis material into a vapor without the use of a flame and that delivers
3993 cannabis to an individual's respiratory system.

3994 (7) The state central fill medical cannabis pharmacy may not give, at no cost, a product
3995 that the medical cannabis pharmacy is allowed to sell under Subsection (1).

3996 (8) (a) The state central fill medical cannabis pharmacy shall retain in the pharmacy's
3997 records the following information regarding each recommendation underlying a transaction:

3998 (i) the qualified medical provider's name, address, and telephone number;

3999 (ii) the patient's name and address;

4000 (iii) the date of issuance;

4001 (iv) dosing parameters or an indication that the qualified medical provider did not
4002 recommend specific dosing parameters; and

4003 (v) the name and the address of the medical cannabis cardholder if the cardholder is not
4004 the patient.

4005 (b) The state central fill medical cannabis pharmacy may not sell cannabis or a

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4006 cannabis product unless the cannabis or cannabis product has a label securely affixed to the
 4007 container indicating the following minimum information:
 4008 (i) the name and telephone number of the state central fill medical cannabis pharmacy;
 4009 (ii) the unique identification number that the state central fill medical cannabis
 4010 pharmacy assigns;
 4011 (iii) the date of the sale;
 4012 (iv) the name of the medical cannabis cardholder;
 4013 (v) the name of the qualified medical provider who recommends the medical cannabis
 4014 treatment;
 4015 (vi) directions for use and cautionary statements, if any;
 4016 (vii) the amount dispensed and the cannabinoid content;
 4017 (viii) the beyond use date; and
 4018 (ix) any other requirements that the department determines, in consultation with the
 4019 Division of Occupational and Professional Licensing and the Board of Pharmacy.
 4020 (9) A pharmacy medical provider at the state central fill medical cannabis pharmacy or
 4021 a state central fill agent shall:
 4022 (a) include in each state central fill shipment written counseling regarding the state
 4023 central fill shipment; and
 4024 (b) provide a telephone number or website by which a medical cannabis cardholder
 4025 may contact a pharmacy medical provider for counseling.
 4026 (10) The department shall establish by rule, in accordance with Title 63G, Chapter 3,
 4027 Utah Administrative Rulemaking Act, protocols for a recall of cannabis and cannabis products
 4028 by the state central fill medical cannabis pharmacy.
 4029 (11) The department may impose a uniform fee on each medical cannabis cardholder
 4030 transaction for a state central fill shipment in an amount that, subject to Subsection
 4031 26-61a-109(5), the department sets in accordance with Section 63J-1-504.
 4032 Section 83. Section **26-61a-605** is enacted to read:
 4033 **26-61a-605. State central fill shipment transportation.**

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(1) The state central fill medical cannabis pharmacy shall ensure that the state central fill medical cannabis pharmacy is capable of delivering, in a secure manner, cannabis in medicinal dosage form, a cannabis product in medicinal dosage form, and a medical cannabis device to each local health department in the state within two business days after the day on which the state central fill medical cannabis pharmacy receives a request for a state central fill shipment resulting from a recommendation of a qualified medical provider under Section 26-61a-603.

(2) (a) The department may contract with a private entity for the entity to serve as a courier for the state central fill medical cannabis pharmacy, delivering state central fill shipments to local health departments for distribution to medical cannabis cardholders.

(b) If the department enters into a contract described in Subsection (2)(a), the department shall:

(i) issue the contract described in Subsection (2)(a) in accordance with Title 63G, Chapter 6a, Utah Procurement Code;

(ii) impose security and personnel requirements on the contracted private entity sufficient to ensure the security and safety of state central fill shipments; and

(iii) provide regular oversight of the contracted private entity.

(3) Except for an individual with a valid medical cannabis card who transports a shipment the individual receives, an individual may not transport a state central fill shipment unless the individual is:

(a) a registered state central fill agent; or

(b) an agent of the private courier described in Subsection (2).

(4) An individual transporting a state central fill shipment shall possess a transportation manifest that:

(a) includes a unique identifier that links the state central fill shipment to a relevant inventory control system;

(b) includes origin and destination information for a state central fill shipment the individual is transporting; and

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(c) indicates the departure and arrival times and locations of the individual transporting the state central fill shipment.

(5) In addition to the requirements in Subsections (3) and (4), the department may establish by rule, in collaboration with the Division of Occupational and Professional Licensing and the Board of Pharmacy and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, requirements for transporting state central fill shipments that are related to safety for human consumption of cannabis or a cannabis product.

(6) (a) It is unlawful for an individual to transport a state central fill shipment with a manifest that does not meet the requirements of Subsection (4).

(b) Except as provided in Subsection (6)(d), an individual who violates Subsection (6)(a) is:

(i) guilty of an infraction; and

(ii) subject to a \$100 fine.

(c) An individual who is guilty of a violation described in Subsection (6)(b) is not guilty of a violation of Title 58, Chapter 37, Utah Controlled Substances Act, for the conduct underlying the violation described in Subsection (6)(b).

(d) If the individual described in Subsection (6)(a) is transporting more cannabis, cannabis product, or medical cannabis devices than the manifest identifies, except for a de minimis administrative error:

(i) this chapter does not apply; and

(ii) the individual is subject to penalties under Title 58, Chapter 37, Utah Controlled Substances Act.

Section 84. Section **26-61a-606** is enacted to read:

26-61a-606. Local health department distribution agent -- Background check -- Registration card -- Rebuttable presumption.

(1) An individual may not serve as a local health department distribution agent unless:

(a) the individual is an employee of a local health department; and

(b) the department registers the individual as a local health department distribution

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4090 agent.

4091 (2) (a) The department shall, within 15 days after the day on which the department
4092 receives a complete application from a local health department on behalf of a prospective local
4093 health department distribution agent, register and issue a local health department distribution
4094 agent registration card to the prospective agent if the local health department:

4095 (i) provides to the department:

4096 (A) the prospective agent's name and address;

4097 (B) the name and location of the local health department where the prospective agent
4098 seeks to act as a local health department distribution agent;

4099 (C) the submission required under Subsection (2)(b); and

4100 (ii) as reported under Subsection (2)(c), has not been convicted under state or federal
4101 law of:

4102 (A) a felony; or

4103 (B) after the effective date of this bill, a misdemeanor for drug distribution.

4104 (b) Each prospective agent described in Subsection (2)(a) shall:

4105 (i) submit to the department:

4106 (A) a fingerprint card in a form acceptable to the Department of Public Safety; and

4107 (B) a signed waiver in accordance with Subsection 53-10-108(4) acknowledging the
4108 registration of the prospective agent's fingerprints in the Federal Bureau of Investigation Next
4109 Generation Identification System's Rap Back Service; and

4110 (ii) consent to a fingerprint background check by:

4111 (A) the Bureau of Criminal Identification; and

4112 (B) the Federal Bureau of Investigation.

4113 (c) The Bureau of Criminal Identification shall:

4114 (i) check the fingerprints the prospective agent submits under Subsection (2)(b) against
4115 the applicable state, regional, and national criminal records databases, including the Federal
4116 Bureau of Investigation Next Generation Identification System;

4117 (ii) report the results of the background check to the department;

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4118 (iii) maintain a separate file of fingerprints that prospective agents submit under
4119 Subsection (2)(b) for search by future submissions to the local and regional criminal records
4120 databases, including latent prints;

4121 (iv) request that the fingerprints be retained in the Federal Bureau of Investigation Next
4122 Generation Identification System's Rap Back Service for search by future submissions to
4123 national criminal records databases, including the Next Generation Identification System and
4124 latent prints; and

4125 (v) establish a privacy risk mitigation strategy to ensure that the department only
4126 receives notifications for an individual with whom the department maintains an authorizing
4127 relationship.

4128 (d) The department shall:

4129 (i) assess an individual who submits fingerprints under Subsection (2)(b) a fee in an
4130 amount that the department sets in accordance with Section 63J-1-504 for the services that the
4131 Bureau of Criminal Identification or another authorized agency provides under this section; and

4132 (ii) remit the fee described in Subsection (2)(d) to the Bureau of Criminal
4133 Identification.

4134 (3) The department shall designate on an individual's local health department
4135 distribution agent registration card the name of the local health department where the
4136 individual is registered as an agent.

4137 (4) (a) A local health department distribution agent shall comply with a certification
4138 standard that the department develops, in collaboration with the Division of Occupational and
4139 Professional Licensing and the Board of Pharmacy, or a third-party certification standard that
4140 the department designates by rule in collaboration with the Division of Occupational and
4141 Professional Licensing and the Board of Pharmacy and in accordance with Title 63G, Chapter
4142 3, Utah Administrative Rulemaking Act.

4143 (b) The department shall ensure that the certification standard described in Subsection
4144 (4)(a) includes training in:

4145 (i) Utah medical cannabis law;

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4146 (ii) the state central fill medical cannabis pharmacy shipment process; and
 4147 (iii) local health department distribution agent best practices.
 4148 (5) The department may revoke or refuse to issue or renew the local health department
 4149 distribution agent registration card of an individual who:
 4150 (a) violates the requirements of this chapter; or
 4151 (b) is convicted under state or federal law of:
 4152 (i) a felony; or
 4153 (ii) after the effective date of this bill, a misdemeanor for drug distribution.
 4154 (6) A local health department distribution agent who the department has registered
 4155 under this section shall carry the agent's local health department distribution agent registration
 4156 card with the agent at all times when:
 4157 (a) the agent is on the premises of the local health department; and
 4158 (b) the agent is handling a shipment of cannabis or cannabis product from the state
 4159 central fill medical cannabis pharmacy.
 4160 (7) If a local health department distribution agent handling a shipment of cannabis or
 4161 cannabis product from the state central fill medical cannabis pharmacy possesses the shipment
 4162 in compliance with Subsection (6):
 4163 (a) there is a rebuttable presumption that the agent possesses the shipment legally; and
 4164 (b) there is no probable cause, based solely on the agent's possession of the shipment
 4165 containing medical cannabis in medicinal dosage form, a cannabis product in medicinal dosage
 4166 form, or a medical cannabis device, that the agent is engaging in illegal activity.
 4167 (8) (a) A local health department distribution agent who violates Subsection (6) is:
 4168 (i) guilty of an infraction; and
 4169 (ii) subject to a \$100 fine.
 4170 (b) An individual who is guilty of a violation described in Subsection (8)(a) is not
 4171 guilty of a violation of Title 58, Chapter 37, Utah Controlled Substances Act, for the conduct
 4172 underlying the violation described in Subsection (8)(a).
 4173 Section 85. Section **26-61a-607** is enacted to read:

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4174 **26-61a-607. Local health department distribution.**
4175 (1) Each local health department shall designate:
4176 (a) one or more of the local health department's locations as a state central fill shipment
4177 distribution location; and
4178 (b) a sufficient number of personnel to ensure that at least one individual is available at
4179 all times during business hours:
4180 (i) whom the department has registered as a local health department distribution agent;
4181 and
4182 (ii) to distribute state central fill shipments to medical cannabis cardholders in
4183 accordance with this section.
4184 (2) An individual may not retrieve a shipment from the state central fill medical
4185 cannabis pharmacy at a local health department unless the individual presents:
4186 (a) a form of identification that is a valid United States federal- or state-issued photo
4187 identification, including a driver license, a United States passport, a United States passport
4188 card, or a United States military identification card; and
4189 (b) a valid medical cannabis card under the same name that appears on the
4190 identification described in Subsection (2)(a).
4191 (3) Before a local health department distribution agent distributes a state central fill
4192 shipment to a medical cannabis cardholder, the local health department distribution agent shall:
4193 (a) verify the shipment information using the state electronic verification system;
4194 (b) ensure that the individual satisfies the identification requirements in Subsection (2);
4195 (c) verify that payment is complete; and
4196 (d) record the completion of the shipment transaction in the electronic verification
4197 system.
4198 (4) The local health department shall:
4199 (a) (i) store each state central fill shipment that the local health department receives,
4200 until the recipient medical cannabis cardholder retrieves the shipment or the local health
4201 department returns the shipment to the state central fill medical cannabis pharmacy in

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4202 accordance with Subsection (5), in a single, secure, locked area that is equipped with a security
 4203 system that detects and records entry into the area; and

4204 (ii) ensure that only a local health department distribution agent is able to access the
 4205 area;

4206 (b) return any unclaimed state central fill shipment to the state central fill medical
 4207 cannabis pharmacy, in accordance with Subsection (5)(a), after the local health department has
 4208 possessed the state central fill shipment for 10 business days; and

4209 (c) return any state central fill shipment to the state central fill medical cannabis
 4210 pharmacy, in accordance with Subsection (5)(b), if a medical cannabis cardholder returns the
 4211 shipment to the local health department after retrieving the shipment.

4212 (5) (a) If a local health department returns an unclaimed state central fill shipment
 4213 under Subsection (4)(b), the state central fill medical cannabis pharmacy may repackage or
 4214 otherwise reuse the shipment for another state central fill shipment.

4215 (b) If a local health department returns a returned state central fill shipment under
 4216 Subsection (4)(c), the state central fill medical cannabis pharmacy shall dispose of the returned
 4217 shipment by:

4218 (i) rendering the state central fill shipment unusable and unrecognizable before
 4219 transporting the shipment from the state central fill medical cannabis pharmacy; and

4220 (ii) disposing of the state central fill shipment in accordance with:

4221 (A) federal and state laws, rules, and regulations related to hazardous waste;

4222 (B) the Resource Conservation and Recovery Act, 42 U.S.C. Sec. 6991 et seq.;

4223 (C) Title 19, Chapter 6, Part 5, Solid Waste Management Act; and

4224 (D) other regulations that the department makes in accordance with Title 63G, Chapter
 4225 3, Utah Administrative Rulemaking Act.

4226 Section 86. Section **26-61a-608** is enacted to read:

4227 **26-61a-608. Department to set state central fill medical cannabis pharmacy prices.**

4228 (1) The department shall set a price schedule for cannabis in a medicinal dosage form
 4229 that the state central fill medical cannabis pharmacy sells to medical cannabis cardholders

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4230 through distribution to local health departments.

4231 (2) The department shall ensure that the price schedule described in Subsection (1):

4232 (a) through an annual review, takes into consideration:

4233 (i) the demand for medical cannabis and cannabis products dispensed through the state
4234 central fill medical cannabis pharmacy and the local health departments;

4235 (ii) the labor required to cultivate and process cannabis into a medicinal dosage form;

4236 (iii) the regulatory burden involved in the creation of the product; and

4237 (iv) any other consideration the department considers necessary; and

4238 (b) after at least three medical cannabis pharmacies that the department licenses under

4239 Section 26-61a-301 are operational, contains pricing for a specific product that is within 10%
4240 of the average price for the product among the operational medical cannabis pharmacies.

4241 (3) The department shall ensure that the price schedule that the department sets under
4242 Subsection (1) includes a set fee that the department deposits into the Qualified Distribution
4243 Enterprise Fund to cover the cost of:

4244 (a) the state central fill medical cannabis pharmacy; and

4245 (b) the courier described in Section 26-61a-605, if any.

4246 Section 87. Section 26-61a-609 is enacted to read:

4247 **26-61a-609. Partial filling.**

4248 (1) As used in this section, "partially fill" means to provide less than the full amount of
4249 cannabis or cannabis product that the qualified medical provider recommends, if the qualified
4250 medical provider recommended specific dosing parameters.

4251 (2) The state central fill medical cannabis pharmacy may partially fill a
4252 recommendation for a medical cannabis treatment at the request of the qualified medical
4253 provider who issued the medical cannabis treatment recommendation or the medical cannabis
4254 cardholder.

4255 (3) The department shall make rules in collaboration with the Division of Occupational
4256 and Professional Licensing and the Board of Pharmacy and in accordance with Title 63G,
4257 Chapter 3, Utah Administrative Rulemaking Act, specifying how to record the date, quantity

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4258 supplied, and quantity remaining of a partially filled medical cannabis treatment
4259 recommendation.

4260 (4) A state central fill medical provider who is a pharmacist may, upon the request of a
4261 medical cannabis cardholder, determine different dosing parameters, subject to the dosing
4262 limits in Subsection 26-61a-604(2), to fill the quantity remaining of a partially filled medical
4263 cannabis treatment recommendation if:

4264 (a) the state central fill medical provider determined dosing parameters for the partial
4265 fill under Subsection 26-61a-604(4); and

4266 (b) the medical cannabis cardholder reports that:

4267 (i) the partial fill did not substantially affect the qualifying condition underlying the
4268 medical cannabis recommendation; or

4269 (ii) the patient experienced an adverse reaction to the partial fill or was otherwise
4270 unable to successfully use the partial fill.

4271 Section 88. Section **26-61a-610** is enacted to read:

4272 **26-61a-610. Records -- Inspections.**

4273 (1) The state central fill medical cannabis pharmacy shall maintain the pharmacy's
4274 medical cannabis treatment recommendation files and other records in accordance with this
4275 chapter, department rules, and the federal Health Insurance Portability and Accountability Act
4276 of 1996, Pub. L. No. 104-191, 110 Stat. 1936, as amended.

4277 (2) The department may inspect the records and facility of the state central fill medical
4278 cannabis pharmacy or a local health department at any time during business hours in order to
4279 determine compliance with this chapter.

4280 (3) An inspection under this section may include:

4281 (a) inspection of a site, facility, vehicle, book, record, paper, document, data, and other
4282 physical or electronic information;

4283 (b) questioning of any relevant individual; or

4284 (c) inspection of equipment, an instrument, a tool, or machinery, including a container
4285 or label.

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(4) In making an inspection under this section, the department may freely access any area and review and make copies of a book, record, paper, document, data, or other physical or electronic information, including financial data, sales data, shipping data, pricing data, and employee data.

(5) Failure to provide the department or the department's authorized agents immediate access during business hours in accordance with this section may result in:

(a) the imposition of a civil monetary penalty that the department sets in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(b) license or registration suspension or revocation; or

(c) an immediate cessation of operations under a cease and desist order that the department issues.

Section 89. Section **26-61a-611** is enacted to read:

26-61a-611. Advertising.

(1) Except as provided in Subsection (2), the state central fill medical cannabis pharmacy may not advertise in any medium.

(2) The state central fill medical cannabis pharmacy may maintain a website that includes information about:

(a) the contact information for the state central fill medical cannabis pharmacy;

(b) a product or service available through shipment from the state central fill medical cannabis pharmacy;

(c) a description of the state central fill medical cannabis pharmacy shipment process;

(d) information about retrieving a state central fill shipment at a local health department; or

(e) educational material related to the medical use of cannabis.

Section 90. Section **26-61a-701** is enacted to read:

Part 7. Enforcement

26-61a-701. Enforcement -- Misdemeanor.

(1) Except as provided in Title 4, Chapter 41a, Cannabis Production Establishments,

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and Sections 26-61a-502, 26-61a-605, and 26-61a-607, it is unlawful for a medical cannabis cardholder to sell or otherwise give to another medical cannabis cardholder cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, a medical cannabis device, or any cannabis residue remaining in or from a medical cannabis device.

(2) (a) Except as provided in Subsection (2)(b), a medical cannabis cardholder who violates Subsection (1) is:

(i) guilty of a class B misdemeanor; and

(ii) subject to a \$1,000 fine.

(b) An individual is not guilty under Subsection (2)(a) if the individual:

(i) (A) is a designated caregiver; and

(B) gives the product described in Subsection (1) to the medical cannabis cardholder who designated the individual as a designated caregiver; or

(ii) (A) is a medical cannabis guardian cardholder; and

(B) gives the product described in Subsection (1) to the relevant provisional patient cardholder.

(c) An individual who is guilty of a violation described in Subsection (2)(a) is not guilty of a violation of Title 58, Chapter 37, Utah Controlled Substances Act, for the conduct underlying the violation described in Subsection (2)(a).

Section 91. Section **26-61a-702**, which is renumbered from Section 26-60b-601 is renumbered and amended to read:

~~[26-60b-601].~~ **26-61a-702. Enforcement -- Fine -- Citation.**

(1) (a) The department may, for a medical cannabis pharmacy's violation of this chapter ~~[by a person who is a cannabis dispensary or cannabis dispensary agent]:~~

~~[(a)]~~ (i) ~~revoke the [person's license or] medical cannabis [dispensary agent registration card] pharmacy license;~~

~~[(b)]~~ (ii) ~~refuse to renew the [person's license or] medical cannabis [dispensary agent registration card] pharmacy license; or~~

~~[(c)]~~ (iii) assess the [person] medical cannabis pharmacy an administrative penalty.

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4342 (b) The department may, for a medical cannabis pharmacy agent's or state central fill
 4343 agent's violation of this chapter:

4344 (i) revoke the medical cannabis pharmacy agent or state central fill agent registration
 4345 card;

4346 (ii) refuse to renew the medical cannabis pharmacy agent or state central fill agent
 4347 registration card; or

4348 (iii) assess the medical cannabis pharmacy agent or state central fill agent an
 4349 administrative penalty.

4350 (2) The department shall deposit an administrative penalty imposed under this section
 4351 [in] into the [general fund] General Fund.

4352 (3) ~~[The department may, for]~~ For a person subject to an uncontested citation, a
 4353 stipulated settlement, or a finding of a violation in an adjudicative proceeding under this
 4354 section, the department may:

4355 (a) for a fine amount not already specified in law, assess the person a fine~~[, established~~
 4356 ~~in accordance with Section 63J-1-504,]~~ of up to \$5,000 per violation, in accordance with a fine
 4357 schedule ~~[established]~~ that the department establishes by rule [made] in accordance with Title
 4358 63G, Chapter 3, Utah Administrative Rulemaking Act; or

4359 (b) order the person to cease and desist from the action that creates a violation.

4360 (4) The department may not revoke a medical cannabis [dispensary's] pharmacy's
 4361 license without first directing the medical cannabis [dispensary] pharmacy to appear before an
 4362 adjudicative proceeding conducted under Title 63G, Chapter 4, Administrative Procedures Act.

4363 (5) If, within 20 calendar days after the day on which the department issues a citation
 4364 for a violation of this chapter, the person that is the subject of the citation fails to request a
 4365 hearing to contest the citation, the citation becomes the department's final order.

4366 (6) The department may, for a person who fails to comply with a citation under this
 4367 section:

4368 (a) refuse to issue or renew the person's license ~~[or cannabis dispensary]~~ agent
 4369 registration card; or

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4370 (b) suspend, revoke, or place on probation the person's license or ~~[cannabis dispensary]~~
 4371 agent registration card.

4372 (7) ~~(a) [If the department makes a final determination under this section that]~~ Except
 4373 where a criminal penalty is expressly provided for a specific violation of this chapter, if an
 4374 individual ~~[violated]~~ violates a provision of this chapter, the individual is:

4375 (i) guilty of an infraction[;]; and

4376 (ii) subject to a \$100 fine.

4377 (b) An individual who is guilty of a violation described in Subsection (7)(a) is not
 4378 guilty of a violation of Title 58, Chapter 37, Utah Controlled Substances Act, for the conduct
 4379 underlying the violation described in Subsection (7)(a).

4380 Section 92. Section ~~26-61a-703~~, which is renumbered from Section 26-60b-602 is
 4381 renumbered and amended to read:

4382 ~~[26-60b-602].~~ **26-61a-703. Report.**

4383 (1) ~~[The]~~ By the November interim meeting each year, the department shall report
 4384 ~~[annually]~~ to the Health and Human Services Interim Committee on:

4385 (a) the number of applications and renewal applications filed for medical cannabis
 4386 cards[;];

4387 (b) the number of qualifying patients and designated caregivers[;];

4388 (c) the nature of the debilitating medical conditions of the qualifying patients[;];

4389 (d) the age and county of residence of cardholders[;];

4390 (e) the number of medical cannabis cards revoked[;];

4391 (f) the number of practitioners providing recommendations for qualifying patients[;];

4392 (g) the number of license applications and renewal license applications received[;];

4393 (h) the number of licenses the department has issued in each county[;];

4394 (i) the number of licenses the department has revoked[~~, and~~];

4395 (j) the quantity and timeliness of state central fill shipments, including the amount of
 4396 time between recommendation to the state central fill medical cannabis pharmacy and arrival of
 4397 a state central fill shipment at a local health department;

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4398 (k) the market share of state central fill shipments;

4399 (l) the expenses incurred and revenues generated from the medical cannabis

4400 program[-];

4401 (m) the expenses incurred and revenues generated from the state central fill medical

4402 cannabis pharmacy, including a profit and loss statement; and

4403 (n) an analysis of product availability, including the price differential between

4404 comparable products, in medical cannabis pharmacies and the state central fill medical

4405 cannabis pharmacy.

4406 (2) The department may not include personally identifying information in the report

4407 described in this section.

4408 Section 93. Section **26-65-102 (Effective 07/01/19)** is amended to read:

4409 **26-65-102 (Effective 07/01/19). Definitions.**

4410 (1) "Agent" means an employee or independent contractor of an entity.

4411 ~~[(2) "Cannabidiol laboratory" means the same as that term is defined in Section~~

4412 ~~4-43-102.]~~

4413 ~~[(3)]~~ (2) "Cannabidiol product" means ~~[the same as that term is defined in Section~~

4414 ~~4-41-102.]~~ a chemical compound extracted from cannabis that:

4415 (a) is processed into a medicinal dosage form; and

4416 (b) contains less than 0.3% tetrahydrocannabinol by dry weight.

4417 (3) "Cannabis" means marijuana, as that term is defined in Section 58-37-2.

4418 ~~[(4) "Cannabidiol-qualified pharmacy" means the same as that term is defined in~~

4419 ~~Section 4-43-102.]~~

4420 ~~[(5) "Cannabinoid Product Restricted Account" means the account created in Section~~

4421 ~~4-43-801.]~~

4422 ~~[(6)]~~ (4) "Medicinal dosage form" means a qualifying dosage form for a cannabidiol

4423 product under Section 26-65-103.

4424 ~~[(7)]~~ (5) "Physician" means an individual who is licensed to practice:

4425 (a) medicine, under Title 58, Chapter 67, Utah Medical Practice Act; or

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4426 (b) osteopathic medicine, under Title 58, Chapter 68, Utah Osteopathic Medical
 4427 Practice Act.

4428 Section 94. Section **26-65-103 (Effective 07/01/19)** is amended to read:

4429 **26-65-103 (Effective 07/01/19). Medicinal dosage form.**

4430 (1) For the purpose of this chapter, any of the following is a qualifying medicinal
 4431 dosage form for a cannabidiol product:

4432 (a) a tablet;

4433 (b) a capsule;

4434 (c) a concentrated oil;

4435 (d) a liquid suspension;

4436 (e) a transdermal preparation; and

4437 (f) a sublingual preparation.

4438 (2) A patient may not purchase, use, or possess a cannabidiol product unless the
 4439 cannabidiol product is prepared in a medicinal dosage form.

4440 (3) A [~~cannabidiol-qualified~~] pharmacy may not purchase, possess, or sell a
 4441 cannabidiol product unless the cannabidiol product is prepared in a medicinal dosage form.

4442 (4) The department may recommend that the Legislature approve the use of an
 4443 additional medicinal dosage form.

4444 Section 95. Section **30-3-10** is amended to read:

4445 **30-3-10. Custody of children in case of separation or divorce -- Custody**
 4446 **consideration.**

4447 (1) If a [~~husband and wife~~] married couple having one or more minor children are
 4448 separated, or their marriage is declared void or dissolved, the court shall make an order for the
 4449 future care and custody of the minor children as it considers appropriate.

4450 (a) In determining any form of custody, including a change in custody, the court shall
 4451 consider the best interests of the child without preference for either [~~the mother or father~~]
 4452 parent solely because of the biological sex of the parent and, among other factors the court
 4453 finds relevant, the following:

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4454 (i) in accordance with Subsection (7), the past conduct and demonstrated moral
4455 standards of each of the parties;

4456 (ii) which parent is most likely to act in the best interest of the child, including
4457 allowing the child frequent and continuing contact with the noncustodial parent;

4458 (iii) the extent of bonding between the parent and child, meaning the depth, quality,
4459 and nature of the relationship between a parent and child;

4460 (iv) whether the parent has intentionally exposed the child to pornography or material
4461 harmful to a minor, as defined in Section 76-10-1201; and

4462 (v) those factors outlined in Section 30-3-10.2.

4463 (b) There ~~shall be~~ is a rebuttable presumption that joint legal custody, as defined in
4464 Section 30-3-10.1, is in the best interest of the child, except in cases where there is:

4465 (i) domestic violence in the home or in the presence of the child;

4466 (ii) special physical or mental needs of a parent or child, making joint legal custody
4467 unreasonable;

4468 (iii) physical distance between the residences of the parents, making joint decision
4469 making impractical in certain circumstances; or

4470 (iv) any other factor the court considers relevant including those listed in this section
4471 and Section 30-3-10.2.

4472 (c) (i) The person who desires joint legal custody shall file a proposed parenting plan in
4473 accordance with Sections 30-3-10.8 and 30-3-10.9.

4474 (ii) A presumption for joint legal custody may be rebutted by a showing by a
4475 preponderance of the evidence that it is not in the best interest of the child.

4476 (d) ~~[The children]~~ A child may not be required by either party to testify unless the trier
4477 of fact determines that extenuating circumstances exist that would necessitate the testimony of
4478 the ~~[children]~~ child be heard and there is no other reasonable method to present ~~[their]~~ the
4479 child's testimony.

4480 (e) (i) The court may inquire of ~~[the children]~~ the child's and take into consideration the
4481 ~~[children's]~~ the child's desires regarding future custody or parent-time schedules, but the

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expressed desires are not controlling and the court may determine the children's custody or parent-time otherwise.

(ii) The desires of a child 14 years of age or older shall be given added weight, but is not the single controlling factor.

(f) (i) If ~~[interviews]~~ an interview with ~~[the children are]~~ a child is conducted by the court pursuant to Subsection (1)(e), ~~[they]~~ the interview shall be conducted by the judge in camera.

(ii) The prior consent of the parties may be obtained but is not necessary if the court finds that an interview with ~~[the children]~~ a child is the only method to ascertain the child's desires regarding custody.

(2) In awarding custody, the court shall consider, among other factors the court finds relevant, which parent is most likely to act in the best interests of the child, including allowing the child frequent and continuing contact with the noncustodial parent as the court finds appropriate.

(3) If the court finds that one parent does not desire custody of the child, the court shall take that evidence into consideration in determining whether to award custody to the other parent.

(4) (a) Except as provided in Subsection (4)(b), a court may not discriminate against a parent due to a disability, as defined in Section 57-21-2, in awarding custody or determining whether a substantial change has occurred for the purpose of modifying an award of custody.

(b) ~~[If a]~~ The court [takes a parent's] may not consider the disability [into account] of a parent as a factor in awarding custody or [determining whether] modifying an award of custody based on a determination of a substantial change [has occurred for the purpose of modifying an award of custody, the parent with a disability may rebut any evidence, presumption, or inference arising from the disability by showing] in circumstances, unless the court makes specific findings that:

(i) the disability ~~[does not]~~ significantly or substantially ~~[inhibit]~~ inhibits the parent's ability to provide for the physical and emotional needs of the child at issue; and

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4510 (ii) the parent with a disability ~~[has]~~ lacks sufficient human, monetary, or other
 4511 resources available to supplement the parent's ability to provide for the physical and emotional
 4512 needs of the child at issue.

4513 (c) Nothing in this section may be construed to apply to adoption proceedings under
 4514 Title 78B, Chapter 6, Part 1, Utah Adoption Act.

4515 (5) This section establishes neither a preference nor a presumption for or against joint
 4516 physical custody or sole physical custody, but allows the court and the family the widest
 4517 discretion to choose a parenting plan that is in the best interest of the child.

4518 (6) When an issue before the court involves custodial responsibility in the event of a
 4519 deployment of one or both parents who are servicemembers, and the servicemember has not yet
 4520 been notified of deployment, the court shall resolve the issue based on the standards in Sections
 4521 78B-20-306 through 78B-20-309.

4522 ~~[(6)]~~ (7) In considering the past conduct and demonstrated moral standards of each ~~[of~~
 4523 ~~the parties as described]~~ party under Subsection (1)(a)(i)~~;~~ or any other factor a court finds
 4524 relevant, the court may not discriminate against a parent because of or otherwise consider the
 4525 parent's:

4526 (a) lawful possession or [consumption] use of cannabis in a medicinal dosage form, a
 4527 cannabis product in a medicinal dosage form, or a medical cannabis device, in accordance with
 4528 Title 26, Chapter [60b] 61a, Utah Medical Cannabis Act, except as it relates to that parent's
 4529 ability to care for a child; or [because of]

4530 (b) [the parent's] status as a:

4531 (i) cannabis production establishment agent, as that term is defined in Section
 4532 4-41a-102;

4533 (ii) medical cannabis pharmacy agent, as that term is defined in Section 26-61a-102;

4534 (iii) state central fill agent, as that term is defined in Section 26-61a-102; or

4535 (iv) medical cannabis cardholder in accordance with [Title 4, Chapter 41b, a cannabis
 4536 dispensary agent in accordance with Title 26, Chapter 60b, or a medical cannabis card holder in
 4537 accordance with] Title 26, Chapter [60b] 61a, Utah Medical Cannabis Act.

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4538 Section 96. Section **34A-2-418** is amended to read:

4539 **34A-2-418. Awards -- Medical, nursing, hospital, and burial expenses -- Artificial**
4540 **means and appliances.**

4541 (1) In addition to the compensation provided in this chapter or Chapter 3, Utah
4542 Occupational Disease Act, and subject to Subsection **34A-2-407**(11), the employer or the
4543 insurance carrier shall pay reasonable sums for medical, nurse, and hospital services, for
4544 medicines, and for artificial means, appliances, and prostheses necessary to treat the injured
4545 employee.

4546 (2) The employer and the insurance carrier are not required to pay or reimburse for
4547 cannabis, a cannabis product, or a medical cannabis device, as those terms are defined in
4548 Section **26-61a-102**.

4549 ~~[(2)]~~ (3) If death results from the injury, the employer or the insurance carrier shall pay
4550 the burial expenses in ordinary cases as established by rule.

4551 ~~[(3)]~~ (4) If a compensable accident results in the breaking of or loss of an employee's
4552 artificial means or appliance including eyeglasses, the employer or insurance carrier shall
4553 provide a replacement of the artificial means or appliance.

4554 ~~[(4)]~~ (5) An administrative law judge may require the employer or insurance carrier to
4555 maintain the artificial means or appliances or provide the employee with a replacement of any
4556 artificial means or appliance for the reason of breakage, wear and tear, deterioration, or
4557 obsolescence.

4558 ~~[(5)]~~ (6) An administrative law judge may, in unusual cases, order, as the
4559 administrative law judge considers just and proper, the payment of additional sums:

4560 (a) for burial expenses; or

4561 (b) to provide for artificial means or appliances.

4562 Section 97. Section **41-6a-517 (Superseded 07/01/19)** is amended to read:

4563 **41-6a-517 (Superseded 07/01/19). Definitions -- Driving with any measurable**
4564 **controlled substance in the body -- Penalties -- Arrest without warrant.**

4565 (1) As used in this section:

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4566 (a) "Controlled substance" means the same as that term is defined in Section 58-37-2.

4567 (b) "Practitioner" means the same as that term is defined in Section 58-37-2.

4568 (c) "Prescribe" means the same as that term is defined in Section 58-37-2.

4569 (d) "Prescription" means the same as that term is defined in Section 58-37-2.

4570 (2) In cases not amounting to a violation of Section 41-6a-502, a person may not
4571 operate or be in actual physical control of a motor vehicle within this state if the person has any
4572 measurable controlled substance or metabolite of a controlled substance in the person's body.

4573 (3) It is an affirmative defense to prosecution under this section that the controlled
4574 substance was:

4575 (a) involuntarily ingested by the accused;

4576 (b) prescribed by a practitioner for use by the accused; ~~or~~

4577 (c) cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage
4578 form that the accused ingested in accordance with Title 26, Chapter 61a, Utah Medical
4579 Cannabis Act; or

4580 ~~[(c)]~~ (d) otherwise legally ingested.

4581 (4) (a) A person convicted of a violation of Subsection (2) is guilty of a class B
4582 misdemeanor.

4583 (b) A person who violates this section is subject to conviction and sentencing under
4584 both this section and any applicable offense under Section 58-37-8.

4585 (5) A peace officer may, without a warrant, arrest a person for a violation of this
4586 section when the officer has probable cause to believe the violation has occurred, although not
4587 in the officer's presence, and if the officer has probable cause to believe that the violation was
4588 committed by the person.

4589 (6) The Driver License Division shall, if the person is 21 years of age or older on the
4590 date of arrest:

4591 (a) suspend, for a period of 120 days, the driver license of a person convicted under
4592 Subsection (2) of an offense committed on or after July 1, 2009; or

4593 (b) revoke, for a period of two years, the driver license of a person if:

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4594 (i) the person has a prior conviction as defined under Subsection 41-6a-501(2); and
4595 (ii) the current violation under Subsection (2) is committed on or after July 1, 2009,
4596 and within a period of 10 years after the date of the prior violation.

4597 (7) The Driver License Division shall, if the person is 19 years of age or older but
4598 under 21 years of age on the date of arrest:

4599 (a) suspend, until the person is 21 years of age or for a period of one year, whichever is
4600 longer, the driver license of a person convicted under Subsection (2) of an offense committed
4601 on or after July 1, 2011; or

4602 (b) revoke, until the person is 21 years of age or for a period of two years, whichever is
4603 longer, the driver license of a person if:

4604 (i) the person has a prior conviction as defined under Subsection 41-6a-501(2); and

4605 (ii) the current violation under Subsection (2) is committed on or after July 1, 2009,
4606 and within a period of 10 years after the date of the prior violation.

4607 (8) The Driver License Division shall, if the person is under 19 years of age on the date
4608 of arrest:

4609 (a) suspend, until the person is 21 years of age, the driver license of a person convicted
4610 under Subsection (2) of an offense committed on or after July 1, 2009; or

4611 (b) revoke, until the person is 21 years of age, the driver license of a person if:

4612 (i) the person has a prior conviction as defined under Subsection 41-6a-501(2); and

4613 (ii) the current violation under Subsection (2) is committed on or after July 1, 2009,
4614 and within a period of 10 years after the date of the prior violation.

4615 (9) The Driver License Division shall subtract from any suspension or revocation
4616 period the number of days for which a license was previously suspended under Section
4617 53-3-223 or 53-3-231, if the previous suspension was based on the same occurrence upon
4618 which the record of conviction is based.

4619 (10) The Driver License Division shall:

4620 (a) deny, suspend, or revoke a person's license for the denial and suspension periods in
4621 effect prior to July 1, 2009, for a conviction of a violation under Subsection (2) that was

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4622 committed prior to July 1, 2009; or

4623 (b) deny, suspend, or revoke the operator's license of a person for the denial,
4624 suspension, or revocation periods in effect from July 1, 2009, through June 30, 2011, if:

4625 (i) the person was 20 years of age or older but under 21 years of age at the time of
4626 arrest; and

4627 (ii) the conviction under Subsection (2) is for an offense that was committed on or after
4628 July 1, 2009, and prior to July 1, 2011.

4629 (11) A court that reported a conviction of a violation of this section for a violation that
4630 occurred on or after July 1, 2009, to the Driver License Division may shorten the suspension
4631 period imposed under Subsection (7)(a) or (8)(a) prior to completion of the suspension period
4632 if the person:

4633 (a) completes at least six months of the license suspension;

4634 (b) completes a screening;

4635 (c) completes an assessment, if it is found appropriate by a screening under Subsection
4636 (11)(b);

4637 (d) completes substance abuse treatment if it is found appropriate by the assessment
4638 under Subsection (11)(c);

4639 (e) completes an educational series if substance abuse treatment is not required by the
4640 assessment under Subsection (11)(c) or the court does not order substance abuse treatment;

4641 (f) has not been convicted of a violation of any motor vehicle law in which the person
4642 was involved as the operator of the vehicle during the suspension period imposed under
4643 Subsection (7)(a) or (8)(a);

4644 (g) has complied with all the terms of the person's probation or all orders of the court if
4645 not ordered to probation; and

4646 (h) (i) is 18 years of age or older and provides a sworn statement to the court that the
4647 person has not consumed a controlled substance not prescribed by a practitioner for use by the
4648 person or unlawfully consumed alcohol during the suspension period imposed under
4649 Subsection (7)(a) or (8)(a); or

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(ii) is under 18 years of age and has the person's parent or legal guardian provide an affidavit or other sworn statement to the court certifying that to the parent or legal guardian's knowledge the person has not consumed a controlled substance not prescribed by a practitioner for use by the person or unlawfully consumed alcohol during the suspension period imposed under Subsection (7)(a) or (8)(a).

(12) If the court shortens a person's license suspension period in accordance with the requirements of Subsection (11), the court shall forward the order shortening the person's license suspension period prior to the completion of the suspension period imposed under Subsection (7)(a) or (8)(a) to the Driver License Division.

(13) (a) The court shall notify the Driver License Division if a person fails to:

(i) complete all court ordered screening and assessment, educational series, and substance abuse treatment; or

(ii) pay all fines and fees, including fees for restitution and treatment costs.

(b) Upon receiving the notification, the division shall suspend the person's driving privilege in accordance with Subsections 53-3-221(2) and (3).

(14) The court:

(a) shall order supervised probation in accordance with Section 41-6a-507 for a person convicted under Subsection (2); and

(b) may order a person convicted under Subsection (2) to participate in a 24-7 sobriety program as defined in Section 41-6a-515.5 if the person is 21 years of age or older.

(15) (a) A court that reported a conviction of a violation of this section to the Driver License Division may shorten the suspension period imposed under Subsection (6) before completion of the suspension period if the person is participating in or has successfully completed a 24-7 sobriety program as defined in Section 41-6a-515.5.

(b) If the court shortens a person's license suspension period in accordance with the requirements of this Subsection (15), the court shall forward to the Driver License Division the order shortening the person's suspension period.

(c) The court shall notify the Driver License Division if a person fails to complete all

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4678 requirements of a 24-7 sobriety program.

4679 (d) Upon receiving the notification described in Subsection (15)(c), the division shall
4680 suspend the person's driving privilege in accordance with Subsections 53-3-221(2) and (3).

4681 Section 98. Section 41-6a-517 (Effective 07/01/19) is amended to read:

4682 **41-6a-517 (Effective 07/01/19). Definitions -- Driving with any measurable**
4683 **controlled substance in the body -- Penalties -- Arrest without warrant.**

4684 (1) As used in this section:

4685 (a) "Controlled substance" means the same as that term is defined in Section 58-37-2.

4686 (b) "Practitioner" means the same as that term is defined in Section 58-37-2.

4687 (c) "Prescribe" means the same as that term is defined in Section 58-37-2.

4688 (d) "Prescription" means the same as that term is defined in Section 58-37-2.

4689 (2) In cases not amounting to a violation of Section 41-6a-502, a person may not
4690 operate or be in actual physical control of a motor vehicle within this state if the person has any
4691 measurable controlled substance or metabolite of a controlled substance in the person's body.

4692 (3) It is an affirmative defense to prosecution under this section that the controlled
4693 substance was:

4694 (a) involuntarily ingested by the accused;

4695 (b) prescribed by a practitioner for use by the accused [~~or recommended by a physician~~
4696 ~~for use by the accused; or~~];

4697 (c) cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage
4698 form that the accused ingested in accordance with Title 26, Chapter 61a, Utah Medical

4699 Cannabis Act; or

4700 [~~(e)~~] (d) otherwise legally ingested.

4701 (4) (a) A person convicted of a violation of Subsection (2) is guilty of a class B
4702 misdemeanor.

4703 (b) A person who violates this section is subject to conviction and sentencing under
4704 both this section and any applicable offense under Section 58-37-8.

4705 (5) A peace officer may, without a warrant, arrest a person for a violation of this

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4706 section when the officer has probable cause to believe the violation has occurred, although not
4707 in the officer's presence, and if the officer has probable cause to believe that the violation was
4708 committed by the person.

4709 (6) The Driver License Division shall, if the person is 21 years of age or older on the
4710 date of arrest:

4711 (a) suspend, for a period of 120 days, the driver license of a person convicted under
4712 Subsection (2) of an offense committed on or after July 1, 2009; or

4713 (b) revoke, for a period of two years, the driver license of a person if:

4714 (i) the person has a prior conviction as defined under Subsection 41-6a-501(2); and

4715 (ii) the current violation under Subsection (2) is committed on or after July 1, 2009,
4716 and within a period of 10 years after the date of the prior violation.

4717 (7) The Driver License Division shall, if the person is 19 years of age or older but
4718 under 21 years of age on the date of arrest:

4719 (a) suspend, until the person is 21 years of age or for a period of one year, whichever is
4720 longer, the driver license of a person convicted under Subsection (2) of an offense committed
4721 on or after July 1, 2011; or

4722 (b) revoke, until the person is 21 years of age or for a period of two years, whichever is
4723 longer, the driver license of a person if:

4724 (i) the person has a prior conviction as defined under Subsection 41-6a-501(2); and

4725 (ii) the current violation under Subsection (2) is committed on or after July 1, 2009,
4726 and within a period of 10 years after the date of the prior violation.

4727 (8) The Driver License Division shall, if the person is under 19 years of age on the date
4728 of arrest:

4729 (a) suspend, until the person is 21 years of age, the driver license of a person convicted
4730 under Subsection (2) of an offense committed on or after July 1, 2009; or

4731 (b) revoke, until the person is 21 years of age, the driver license of a person if:

4732 (i) the person has a prior conviction as defined under Subsection 41-6a-501(2); and

4733 (ii) the current violation under Subsection (2) is committed on or after July 1, 2009,

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4734 and within a period of 10 years after the date of the prior violation.

4735 (9) The Driver License Division shall subtract from any suspension or revocation
4736 period the number of days for which a license was previously suspended under Section
4737 53-3-223 or 53-3-231, if the previous suspension was based on the same occurrence upon
4738 which the record of conviction is based.

4739 (10) The Driver License Division shall:

4740 (a) deny, suspend, or revoke a person's license for the denial and suspension periods in
4741 effect prior to July 1, 2009, for a conviction of a violation under Subsection (2) that was
4742 committed prior to July 1, 2009; or

4743 (b) deny, suspend, or revoke the operator's license of a person for the denial,
4744 suspension, or revocation periods in effect from July 1, 2009, through June 30, 2011, if:

4745 (i) the person was 20 years of age or older but under 21 years of age at the time of
4746 arrest; and

4747 (ii) the conviction under Subsection (2) is for an offense that was committed on or after
4748 July 1, 2009, and prior to July 1, 2011.

4749 (11) A court that reported a conviction of a violation of this section for a violation that
4750 occurred on or after July 1, 2009, to the Driver License Division may shorten the suspension
4751 period imposed under Subsection (7)(a) or (8)(a) prior to completion of the suspension period
4752 if the person:

4753 (a) completes at least six months of the license suspension;

4754 (b) completes a screening;

4755 (c) completes an assessment, if it is found appropriate by a screening under Subsection
4756 (11)(b);

4757 (d) completes substance abuse treatment if it is found appropriate by the assessment
4758 under Subsection (11)(c);

4759 (e) completes an educational series if substance abuse treatment is not required by the
4760 assessment under Subsection (11)(c) or the court does not order substance abuse treatment;

4761 (f) has not been convicted of a violation of any motor vehicle law in which the person

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4762 was involved as the operator of the vehicle during the suspension period imposed under
4763 Subsection (7)(a) or (8)(a);

4764 (g) has complied with all the terms of the person's probation or all orders of the court if
4765 not ordered to probation; and

4766 (h) (i) is 18 years of age or older and provides a sworn statement to the court that the
4767 person has not consumed a controlled substance not prescribed by a practitioner for use by the
4768 person or unlawfully consumed alcohol during the suspension period imposed under
4769 Subsection (7)(a) or (8)(a); or

4770 (ii) is under 18 years of age and has the person's parent or legal guardian provide an
4771 affidavit or other sworn statement to the court certifying that to the parent or legal guardian's
4772 knowledge the person has not consumed a controlled substance not prescribed by a practitioner
4773 for use by the person or unlawfully consumed alcohol during the suspension period imposed
4774 under Subsection (7)(a) or (8)(a).

4775 (12) If the court shortens a person's license suspension period in accordance with the
4776 requirements of Subsection (11), the court shall forward the order shortening the person's
4777 license suspension period prior to the completion of the suspension period imposed under
4778 Subsection (7)(a) or (8)(a) to the Driver License Division.

4779 (13) (a) The court shall notify the Driver License Division if a person fails to:

4780 (i) complete all court ordered screening and assessment, educational series, and
4781 substance abuse treatment; or

4782 (ii) pay all fines and fees, including fees for restitution and treatment costs.

4783 (b) Upon receiving the notification, the division shall suspend the person's driving
4784 privilege in accordance with Subsections 53-3-221(2) and (3).

4785 (14) The court:

4786 (a) shall order supervised probation in accordance with Section 41-6a-507 for a person
4787 convicted under Subsection (2); and

4788 (b) may order a person convicted under Subsection (2) to participate in a 24-7 sobriety
4789 program as defined in Section 41-6a-515.5 if the person is 21 years of age or older.

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4790 (15) (a) A court that reported a conviction of a violation of this section to the Driver
4791 License Division may shorten the suspension period imposed under Subsection (6) before
4792 completion of the suspension period if the person is participating in or has successfully
4793 completed a 24-7 sobriety program as defined in Section 41-6a-515.5.

4794 (b) If the court shortens a person's license suspension period in accordance with the
4795 requirements of this Subsection (15), the court shall forward to the Driver License Division the
4796 order shortening the person's suspension period.

4797 (c) The court shall notify the Driver License Division if a person fails to complete all
4798 requirements of a 24-7 sobriety program.

4799 (d) Upon receiving the notification described in Subsection (15)(c), the division shall
4800 suspend the person's driving privilege in accordance with Subsections 53-3-221(2) and (3).

4801 Section 99. Section 49-11-1401 is amended to read:

4802 **49-11-1401. Forfeiture of retirement benefits for employees for employment**
4803 **related offense convictions -- Notifications -- Investigations -- Appeals.**

4804 (1) As used in this section:

4805 (a) "Convicted" means a conviction by plea or by verdict, including a plea of guilty or a
4806 plea of no contest that is held in abeyance under Title 77, Chapter 2a, Pleas in Abeyance,
4807 regardless of whether the charge was, or is, subsequently reduced or dismissed in accordance
4808 with the plea in abeyance agreement.

4809 (b) "Employee" means a member of a system or plan administered by the board.

4810 (c) (i) "Employment related offense" means a felony committed during employment or
4811 the term of an elected or appointed office with a participating employer that is:

4812 [(i)] (A) during the performance of the employee's duties;

4813 [(ii)] (B) within the scope of the employee's employment; or

4814 [(iii)] (C) under color of the employee's authority.

4815 (ii) "Employment related offense" does not include any federal offense for conduct that
4816 is lawful under Title 26, Chapter 61a, Utah Medical Cannabis Act.

4817 (2) (a) Notwithstanding any other provision of this title, an employee shall forfeit

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4818 accrual of service credit, employer retirement related contributions, including employer
4819 contributions to the employer sponsored defined contribution plans, or other retirement related
4820 benefits from a system or plan under this title in accordance with this section.

4821 (b) The forfeiture of retirement related benefits under Subsection (2)(a) does not
4822 include the employee's contribution to a defined contribution plan.

4823 (3) An employee shall forfeit the benefits described under Subsection (2)(a):

4824 (a) if the employee is convicted of an employment related offense;

4825 (b) beginning on the day on which the employment related offense occurred; and

4826 (c) until the employee is either:

4827 (i) re-elected or reappointed to office; or

4828 (ii) (A) terminated from the position for which the employee was found to have
4829 committed an employment related offense; and

4830 (B) rehired or hired as an employee who is eligible to be a member of a Utah state
4831 retirement system or plan.

4832 (4) The employee's participating employer shall:

4833 (a) immediately notify the office:

4834 (i) if an employee is charged with an offense that is or may be an employment related
4835 offense under this section; and

4836 (ii) if the employee described in Subsection (4)(a)(i) is acquitted of the offense that is
4837 or may be an employment related offense under this section; and

4838 (b) if the employee is convicted of an offense that may be an employment related
4839 offense:

4840 (i) conduct an investigation, which may rely on the conviction, to determine:

4841 (A) whether the conviction is for an employment related offense; and

4842 (B) the date on which the employment related offense was initially committed; and

4843 (ii) after the period of time for an appeal by an employee under Subsection (5),
4844 immediately notify the office of the employer's determination under this Subsection (4)(b).

4845 (5) An employee may appeal the employee's participating employer's determination

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4846 under Subsection (4)(b) in accordance with Title 63G, Chapter 4, Administrative Procedures
4847 Act.

4848 (6) (a) Notwithstanding Subsection (4), a district attorney, a county attorney, the
4849 attorney general's office, or the state auditor may notify the office and the employee's
4850 participating employer if an employee is charged with an offense that is or may be an
4851 employment related offense under this section.

4852 (b) If the employee's participating employer receives a notification under Subsection
4853 (6)(a), the participating employer shall immediately report to the entity that provided the
4854 notification under Subsection (6)(a):

4855 (i) if the employee is acquitted of the offense;

4856 (ii) if the employee is convicted of an offense that may be an employment related
4857 offense; and

4858 (iii) when the participating employer has concluded its duties under this section if the
4859 employee is convicted, including conducting an investigation, making a determination under
4860 Subsection (4)(b) that the conviction was for an employment related offense, and notifying the
4861 office under Subsection (7).

4862 (c) The notifying entity under Subsection (6)(a) may assist the employee's participating
4863 employer with the investigation and determination described under Subsection (4)(b).

4864 (7) Upon receiving a notification from a participating employer that the participating
4865 employer has made a determination under Subsection (4)(b) that the conviction was for an
4866 employment related offense, the office shall immediately forfeit any service credit, employer
4867 retirement related contributions, including employer contributions to the employer sponsored
4868 contribution plans, or other retirement related benefits accrued by or made for the benefit of the
4869 employee, beginning on the date of the initial employment related offense determined under
4870 Subsection (4)(b).

4871 (8) This section applies to an employee who is convicted on or after the effective date
4872 of this act for an employment related offense.

4873 (9) The board may make rules to implement this section.

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(10) If any provision of this section, or the application of any provision to any person or circumstance, is held invalid, the remainder of this section shall be given effect without the invalid provision or application.

Section 100. Section **53-1-106.5** is amended to read:

53-1-106.5. Utah Medical Cannabis Act -- Department duties.

In addition to the duties described in Section **53-1-106**, the department shall:

(1) provide standards for training peace officers and law enforcement agencies in the use of the state electronic verification system; and

(2) collaborate with the Department of Health and the Department of Agriculture and Food to provide standards for training peace officers and law enforcement agencies in medical cannabis law.

Section 101. Section **58-17b-302** is amended to read:

58-17b-302. License required -- License classifications for pharmacy facilities.

(1) A license is required to act as a pharmacy, except:

(a) as specifically exempted from licensure under Section **58-1-307**[~~;~~]; and

(b) for the operation of a medical cannabis pharmacy or the state central fill medical cannabis pharmacy under Title 26, Chapter 61a, Utah Medical Cannabis Act.

(2) The division shall issue a pharmacy license to a facility that qualifies under this chapter in the classification of a:

(a) class A pharmacy;

(b) class B pharmacy;

(c) class C pharmacy;

(d) class D pharmacy;

(e) class E pharmacy; or

(f) dispensing medical practitioner clinic pharmacy.

(3) (a) Each place of business shall require a separate license.

(b) If multiple pharmacies exist at the same address, a separate license shall be required for each pharmacy.

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(4) (a) The division may further define or supplement the classifications of pharmacies.

(b) The division may impose restrictions upon classifications to protect the public health, safety, and welfare.

(5) Each pharmacy, including the state central fill medical cannabis pharmacy, shall have a pharmacist-in-charge, except as otherwise provided by rule.

(6) Whenever an applicable statute or rule requires or prohibits action by a pharmacy, the pharmacist-in-charge and the owner of the pharmacy shall be responsible for all activities of the pharmacy, regardless of the form of the business organization.

Section 102. Section **58-17b-310** is amended to read:

58-17b-310. Continuing education.

(1) The division in collaboration with the board may establish by rule continuing education requirements for each classification of licensure under this chapter.

(2) The division shall accept and apply toward an hour requirement that the division establishes under Subsection (1) continuing education that a pharmacist completes in accordance with Sections 26-61a-403 and 26-61a-601.

Section 103. Section **58-17b-502** is amended to read:

58-17b-502. Unprofessional conduct.

(1) "Unprofessional conduct" includes:

~~[(1)]~~ (a) willfully deceiving or attempting to deceive the division, the board, or their agents as to any relevant matter regarding compliance under this chapter;

~~[(2)(a)]~~ (b) except as provided in Subsection (2)~~[(b)]~~:

(i) paying or offering rebates to practitioners or any other health care providers, or receiving or soliciting rebates from practitioners or any other health care provider; or

(ii) paying, offering, receiving, or soliciting compensation in the form of a commission, bonus, rebate, kickback, or split fee arrangement with practitioners or any other health care provider, for the purpose of obtaining referrals~~[-]~~;

~~[(b) Subsection (2)(a) does not apply to:]~~

~~[(i) giving or receiving price discounts based on purchase volume;]~~

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4930 ~~[(ii) passing along pharmaceutical manufacturer's rebates; or]~~
4931 ~~[(iii) providing compensation for services to a veterinarian.]~~
4932 ~~[(3)]~~ (c) misbranding or adulteration of any drug or device or the sale, distribution, or
4933 dispensing of any outdated, misbranded, or adulterated drug or device;
4934 ~~[(4)]~~ (d) engaging in the sale or purchase of drugs or devices that are samples or
4935 packages bearing the inscription "sample" or "not for resale" or similar words or phrases;
4936 ~~[(5)]~~ (e) except as provided in Section 58-17b-503 or Part 9, Charitable Prescription
4937 Drug Recycling Act, accepting back and redistributing any unused drug, or a part of it, after it
4938 has left the premises of any pharmacy, unless the drug is in a unit pack, as defined in Section
4939 58-17b-503, or the manufacturer's sealed container, as defined in rule;
4940 ~~[(6)]~~ (f) an act in violation of this chapter committed by a person for any form of
4941 compensation if the act is incidental to the person's professional activities, including the
4942 activities of a pharmacist, pharmacy intern, or pharmacy technician;
4943 ~~[(7)]~~ (g) violating:
4944 ~~[(a)]~~ (i) the federal Controlled Substances Act, Title II, P.L. 91-513;
4945 ~~[(b)]~~ (ii) Title 58, Chapter 37, Utah Controlled Substances Act; or
4946 ~~[(c)]~~ (iii) rules or regulations adopted under either act;
4947 ~~[(8)]~~ (h) requiring or permitting pharmacy interns or technicians to engage in activities
4948 outside the scope of practice for their respective license classifications, as defined in this
4949 chapter and division rules made in collaboration with the board, or beyond their scope of
4950 training and ability;
4951 ~~[(9)]~~ (i) administering:
4952 ~~[(a)]~~ (i) without appropriate training, as defined by rule;
4953 ~~[(b)]~~ (ii) without a physician's order, when one is required by law; and
4954 ~~[(c)]~~ (iii) in conflict with a practitioner's written guidelines or written protocol for
4955 administering;
4956 ~~[(10)]~~ (j) disclosing confidential patient information in violation of the provisions of
4957 the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191, 110

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4958 Stat. 1936, as amended, or other applicable law;

4959 ~~[(11)]~~ (k) engaging in the practice of pharmacy without a licensed pharmacist

4960 designated as the pharmacist-in-charge;

4961 ~~[(12)]~~ (l) failing to report to the division any adverse action taken by another licensing

4962 jurisdiction, government agency, law enforcement agency, or court for conduct that in

4963 substance would be considered unprofessional conduct under this section;

4964 ~~[(13)]~~ (m) as a pharmacist or pharmacy intern, compounding a prescription drug in a

4965 dosage form which is regularly and commonly available from a manufacturer in quantities and

4966 strengths prescribed by a practitioner; ~~[and]~~

4967 ~~[(14)]~~ (n) failing to act in accordance with Title 26, Chapter 64, Family Planning

4968 Access Act, when dispensing a self-administered hormonal contraceptive under a standing

4969 order~~[-]~~; and

4970 (o) violating the requirements of Title 26, Chapter 61a, Utah Medical Cannabis Act.

4971 (2) Subsection (1)(b) does not apply to:

4972 (a) giving or receiving a price discount based on purchase volume;

4973 (b) passing along a pharmaceutical manufacturer's rebate; or

4974 (c) providing compensation for services to a veterinarian.

4975 (3) "Unprofessional conduct" does not include, in accordance with Title 26, Chapter

4976 61a, Utah Medical Cannabis Act:

4977 (a) when registered as a pharmacy medical provider, as that term is defined in Section

4978 26-61a-102, providing pharmacy medical provider services in a medical cannabis pharmacy; or

4979 (b) when registered as a state central fill medical provider, as that term is defined in

4980 Section 26-61a-102, providing state central fill medical provider services in the state central fill

4981 medical cannabis pharmacy.

4982 (4) Notwithstanding Subsection (3), the division, in consultation with the board and in

4983 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, shall define

4984 unprofessional conduct for a pharmacist described in Subsections (3)(a) and (b).

4985 Section 104. Section **58-20b-101** is enacted to read:

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CHAPTER 20b. ENVIRONMENTAL HEALTH SCIENTIST ACT

Part 1. General Provisions.

58-20b-101. Title.

This chapter is known as the "Environmental Health Scientist Act."

Section 105. Section **58-20b-102** is enacted to read:

58-20b-102. Definitions.

In addition to the definitions in Section 58-1-102, as used in this chapter:

(1) "Accredited program" means a degree-offering program from:

(a) an institution, college, or university that is accredited by the Department of Education or the Council for Higher Education Accreditation; or

(b) a non-accredited institution, college, or university that offers education equivalent to Department of Education-accredited programs, as determined by a third party selected by the board.

(2) "Board" means the Environmental Health Scientist Board created in Section 58-20b-201.

(3) "General supervision" means the supervising environmental health scientist is available for immediate voice communication with the person he or she is supervising.

(4) "Practice of environmental health science" means:

(a) the enforcement of, the issuance of permits required by, or the inspection for the purpose of enforcing state and local public health laws in the following areas:

(i) air quality;

(ii) food quality;

(iii) solid, hazardous, and toxic substances disposal;

(iv) consumer product safety;

(v) housing;

(vi) noise control;

(vii) radiation protection;

(viii) water quality;

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5014 (ix) vector control;
 5015 (x) drinking water quality;
 5016 (xi) milk sanitation;
 5017 (xii) rabies control;
 5018 (xiii) public health nuisances;
 5019 (xiv) indoor clean air regulations;
 5020 (xv) institutional and residential sanitation; or
 5021 (xvi) recreational facilities sanitation; or
 5022 (b) representing oneself in any manner as, or using the titles "environmental health
 5023 scientist," "environmental health scientist-in-training," or "registered sanitarian."

5024 (5) "Unlawful conduct" means the same as that term is defined in Section 58-1-501.

5025 (6) "Unprofessional conduct" means the same as that term is defined in Sections
 5026 58-1-501 and 58-20b-501 and as may be further defined by division rule.

5027 Section 106. Section **58-20b-201** is enacted to read:

5028 **Part 2. Board.**

5029 **58-20b-201. Board.**

5030 (1) There is created the Environmental Health Scientist Board consisting of four
 5031 environmental health scientists in good standing and one member of the general public.

5032 (2) The board shall be appointed and serve in accordance with Section 58-1-201.

5033 (3) The duties and responsibilities of the board shall be in accordance with Sections
 5034 58-1-202 and 58-1-203. In addition, the board shall designate one of its members on a

5035 permanent or rotating basis to:

5036 (a) assist the division in reviewing complaints concerning the unlawful or
 5037 unprofessional conduct of a licensee; and

5038 (b) advise the division in its investigation of these complaints.

5039 (4) A board member who has, under Subsection (3), reviewed a complaint or advised
 5040 in the investigation of the complaint is disqualified from participating with the board when the
 5041 board serves as a presiding officer in an adjudicative proceeding concerning the complaint.

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5042 Section 107. Section **58-20b-301** is enacted to read:

5043 **Part 3. Licensing.**

5044 **58-20b-301. Licensure required -- License classifications.**

5045 (1) A person shall hold a license under this chapter in order to engage in the practice of
5046 environmental health science while employed by any of the following, except as specifically
5047 exempted in Section [58-20b-305](#) or [58-1-307](#):

5048 (a) a local health department;

5049 (b) the state Department of Health;

5050 (c) the state Department of Human Services;

5051 (d) the Department of Agriculture and Food as a food and dairy compliance officer; or

5052 (e) a local health department as its director of environmental health services.

5053 (2) Any other individual not subject to Subsection (1) may also be licensed under this
5054 chapter upon compliance with all requirements.

5055 (3) The division shall issue to persons who qualify under this chapter a license in the
5056 classification:

5057 (a) environmental health scientist; or

5058 (b) environmental health scientist-in-training.

5059 Section 108. Section **58-20b-302** is enacted to read:

5060 **58-20b-302. Qualifications for licensure.**

5061 (1) Except as provided in Subsection (2), an applicant for licensure as an
5062 environmental health scientist shall:

5063 (a) submit an application in a form prescribed by the division;

5064 (b) pay a fee determined by the department under Section [63J-1-504](#);

5065 (c) be of good moral character;

5066 (d) hold, at a minimum, a bachelor's degree from an accredited program in a university
5067 or college, which degree includes completion of specific course work as defined by rule;

5068 (e) pass an examination as determined by division rule in collaboration with the board;

5069 and

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5070 (f) pass the Utah Law and Rules Examination for Environmental Health Scientists
5071 administered by the division.

5072 (2) An applicant for licensure as an environmental health scientist-in-training shall:

5073 (a) submit an application in a form prescribed by the division;

5074 (b) pay a fee determined by the department under Section [63J-1-504](#);

5075 (c) be of good moral character;

5076 (d) hold, at a minimum, a bachelor's degree from an accredited program in a university
5077 or college, which degree includes completion of specific course work as defined by rule;

5078 (e) pass the Utah Law and Rules Examination for Environmental Health Scientists
5079 administered by the division; and

5080 (f) present evidence acceptable to the division and the board that the applicant, when
5081 licensed, will practice as an environmental health scientist-in-training only under the general
5082 supervision of a supervising environmental health scientist licensed under this chapter.

5083 Section 109. Section **58-20b-303** is enacted to read:

5084 **58-20b-303. Term of license -- Expiration -- Renewal.**

5085 (1) (a) The division shall issue each license for an environmental health scientist in
5086 accordance with a two-year renewal cycle established by rule.

5087 (b) The division may by rule extend or shorten a renewal period by as much as one year
5088 to stagger the renewal cycles it administers.

5089 (2) Each license for an environmental health scientist-in-training shall be issued for a
5090 term of two years and may not be renewed.

5091 (3) Each license issued under this chapter automatically expires on the expiration date
5092 shown on the license unless the licensee renews it in accordance with Section [58-1-308](#).

5093 Section 110. Section **58-20b-304** is enacted to read:

5094 **58-20b-304. Continuing education.**

5095 Each person holding a license under this chapter as an environmental health scientist or
5096 an environmental health scientist-in-training shall complete in each two-year period of
5097 licensure not fewer than 30 hours of professional continuing education in accordance with

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5098 standards defined by division rule.

5099 Section 111. Section **58-20b-305** is enacted to read:

5100 **58-20b-305. Exemptions from licensure.**

5101 In addition to the exemptions from licensure in Section [58-1-307](#), a person is exempt
5102 from the licensure requirements of this chapter if:

5103 (1) the person's practice of environmental health science is limited to inspecting in
5104 order to enforce compliance with an inspection and maintenance program established pursuant
5105 to Section [41-6a-1642](#) or to issuing permits under that program;

5106 (2) the person is a laboratory staff person employed by the Department of Agriculture
5107 and Food or the Department of Health, and in the person's employment inspects, permits,
5108 certifies, or otherwise enforces laboratory standards in laboratories regulated by state or local
5109 public health laws; or

5110 (3) the person is the local health officer of a local public health department, which
5111 employs a director of environmental health services licensed under this chapter.

5112 Section 112. Section **58-20b-401** is enacted to read:

5113 **Part 4. License Denial and Discipline.**

5114 **58-20b-401. Grounds for denial of license -- Disciplinary proceedings.**

5115 Grounds for refusing to issue a license to an applicant, for refusing to renew the license
5116 of a licensee, for revoking, suspending, restricting, or placing on probation the license of a
5117 licensee, for issuing a public or private reprimand to a licensee, and for issuing a cease and
5118 desist order shall be in accordance with Section [58-1-401](#).

5119 Section 113. Section **58-20b-501** is enacted to read:

5120 **Part 5. Unprofessional Conduct.**

5121 **58-20b-501. Unprofessional conduct.**

5122 "Unprofessional conduct" includes:

5123 (1) acting dishonestly or fraudulently in the performance of professional duties as an
5124 environmental health scientist or environmental health scientist-in-training;

5125 (2) intentionally filing a false report or record in the performance of professional duties

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as an environmental health scientist or environmental health scientist-in-training; and
(3) willfully impeding or obstructing another person from filing a report in the
performance of professional duties as an environmental health scientist or environmental health
scientist-in-training.

Section 114. Section **58-31b-305** is amended to read:

58-31b-305. Term of license -- Expiration -- Renewal.

(1) The division shall issue each license or certification under this chapter in
accordance with a two-year renewal cycle established by rule. The division may by rule extend
or shorten a renewal period by as much as one year to stagger the renewal cycles it administers.

(2) The division shall renew the license of a licensee who, at the time of renewal:

(a) completes and submits an application for renewal in a form prescribed by the
division;

(b) pays a renewal fee established by the division under Section 63J-1-504; and

(c) meets continuing competency requirements as established by rule.

(3) In addition to the renewal requirements under Subsection (2), a person licensed as
[a] an advanced practice registered nurse shall be currently certified by a program approved by
the division in collaboration with the board and submit evidence satisfactory to the division of
that qualification or if licensed prior to July 1, 1992, meet the requirements established by rule.

(4) In addition to the requirements described in Subsections (2) and (3), an advanced
practice registered nurse licensee specializing in psychiatric mental health nursing who, as of
the day on which the division originally issued the licensee's license had not completed the
division's clinical practice requirements in psychiatric and mental health nursing, shall, to
qualify for renewal:

(a) if renewing less than two years after the day on which the division originally issued
the license, demonstrate satisfactory progress toward completing the clinical practice
requirements; or

(b) have completed the clinical practice requirements.

(5) Each license or certification automatically expires on the expiration date shown on

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5154 the license or certification unless renewed in accordance with Section 58-1-308.

5155 (6) The division shall accept and apply toward an hour requirement that the division
 5156 establishes under Subsection (2)(c) continuing education that an advanced practice registered
 5157 nurse completes in accordance with Section 26-61a-106.

5158 Section 115. Section **58-31b-502** is amended to read:

5159 **58-31b-502. Unprofessional conduct.**

5160 (1) "Unprofessional conduct" includes:

5161 ~~[(1)]~~ (a) failure to safeguard a patient's right to privacy as to the patient's person,
 5162 condition, diagnosis, personal effects, or any other matter about which the licensee is privileged
 5163 to know because of the licensee's or person with a certification's position or practice as a nurse
 5164 or practice as a medication aide certified;

5165 ~~[(2)]~~ (b) failure to provide nursing service or service as a medication aide certified in a
 5166 manner that demonstrates respect for the patient's human dignity and unique personal character
 5167 and needs without regard to the patient's race, religion, ethnic background, socioeconomic
 5168 status, age, sex, or the nature of the patient's health problem;

5169 ~~[(3)]~~ (c) engaging in sexual relations with a patient during any:

5170 ~~[(a)]~~ (i) period when a generally recognized professional relationship exists between
 5171 the person licensed or certified under this chapter and the patient; or

5172 ~~[(b)]~~ (ii) extended period when a patient has reasonable cause to believe a professional
 5173 relationship exists between the person licensed or certified under the provisions of this chapter
 5174 and the patient;

5175 ~~[(4)]~~ (a) (d) (i) as a result of any circumstance under Subsection ~~[(3)]~~ (1) (c), exploiting
 5176 or using information about a patient or exploiting the licensee's or the person with a
 5177 certification's professional relationship between the licensee or holder of a certification under
 5178 this chapter and the patient; or

5179 ~~[(b)]~~ (ii) exploiting the patient by use of the licensee's or person with a certification's
 5180 knowledge of the patient obtained while acting as a nurse or a medication aide certified;

5181 ~~[(5)]~~ (e) unlawfully obtaining, possessing, or using any prescription drug or illicit drug;

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5182 ~~[(6)]~~ (f) unauthorized taking or personal use of nursing supplies from an employer;

5183 ~~[(7)]~~ (g) unauthorized taking or personal use of a patient's personal property;

5184 ~~[(8)]~~ (h) knowingly entering into any medical record any false or misleading

5185 information or altering a medical record in any way for the purpose of concealing an act,

5186 omission, or record of events, medical condition, or any other circumstance related to the

5187 patient and the medical or nursing care provided;

5188 ~~[(9)]~~ (i) unlawful or inappropriate delegation of nursing care;

5189 ~~[(10)]~~ (j) failure to exercise appropriate supervision of persons providing patient care

5190 services under supervision of the licensed nurse;

5191 ~~[(11)]~~ (k) employing or aiding and abetting the employment of an unqualified or

5192 unlicensed person to practice as a nurse;

5193 ~~[(12)]~~ (l) failure to file or record any medical report as required by law, impeding or

5194 obstructing the filing or recording of such a report, or inducing another to fail to file or record

5195 such a report;

5196 ~~[(13)]~~ (m) breach of a statutory, common law, regulatory, or ethical requirement of

5197 confidentiality with respect to a person who is a patient, unless ordered by a court;

5198 ~~[(14)]~~ (n) failure to pay a penalty imposed by the division;

5199 ~~[(15)]~~ (o) prescribing a Schedule ~~[H-HH]~~ II or III controlled substance without

5200 complying with the requirements in Section 58-31b-803;

5201 ~~[(16)]~~ (p) violating Section 58-31b-801;

5202 ~~[(17)]~~ (q) violating the dispensing requirements of Section 58-17b-309 or Chapter 17b,

5203 Part 8, Dispensing Medical Practitioner and Dispensing Medical Practitioner Clinic Pharmacy,

5204 if applicable; and

5205 ~~[(18)]~~ (r) establishing or operating a pain clinic without a consultation and referral plan

5206 for Schedule ~~[H-HH]~~ II or III controlled substances.

5207 (2) "Unprofessional conduct" does not include, in accordance with Title 26, Chapter

5208 61a, Utah Medical Cannabis Act, when registered as a qualified medical provider, as that term

5209 is defined in Section 26-61a-102, recommending the use of medical cannabis.

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(3) Notwithstanding Subsection (2), the division, in consultation with the board and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, shall define unprofessional conduct for an advanced practice registered nurse described in Subsection (2).

Section 116. Section **58-37-3.6 (Superseded 07/01/19)** is amended to read:

58-37-3.6 (Superseded 07/01/19). Exemption for possession or distribution of a cannabinoid product or expanded cannabinoid product pursuant to an approved study.

(1) As used in this section:

(a) "Cannabinoid product" means a product intended for human ingestion that:

(i) contains an extract or concentrate that is obtained from cannabis;

(ii) is prepared in a medicinal dosage form; and

(iii) contains at least 10 units of cannabidiol for every one unit of tetrahydrocannabinol.

(b) "Cannabis" means any part of the plant cannabis sativa, whether growing or not.

(c) "Drug paraphernalia" means the same as that term is defined in Section **58-37a-3**.

(d) "Expanded cannabinoid product" means a product intended for human ingestion that:

(i) contains an extract or concentrate that is obtained from cannabis;

(ii) is prepared in a medicinal dosage form; and

(iii) contains less than 10 units of cannabidiol for every one unit of tetrahydrocannabinol.

(e) "Medicinal dosage form" means:

(i) a tablet;

(ii) a capsule;

(iii) a concentrated oil;

(iv) a liquid suspension;

(v) a transdermal preparation; or

(vi) a sublingual preparation.

(f) "Tetrahydrocannabinol" means a substance derived from cannabis that meets the description in Subsection **58-37-4(2)(a)(iii)(AA)**.

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(2) Notwithstanding any other provision of this chapter, an individual who possesses or distributes a cannabinoid product or an expanded cannabinoid product is not subject to the penalties described in this title for the possession or distribution of marijuana or tetrahydrocannabinol to the extent that the individual's possession or distribution of the cannabinoid product or expanded cannabinoid product complies with Title 26, Chapter 61, Cannabinoid Research Act.

~~[(3) Notwithstanding any other provision of this chapter, an individual who grows, processes, or possesses cannabis is not subject to the penalties described in this title for the growth, processing, or possession of marijuana to the extent that the individual is authorized to grow, process, or possess the cannabis under Section 4-41-203 and is in compliance with any rules made pursuant to Section 4-41-204.]~~

~~[(4) Notwithstanding any other provision of this chapter, an individual who possesses or uses cannabis in a medicinal dosage form is not subject to the penalties described in this title for the possession or use of marijuana or tetrahydrocannabinol to the extent that the individual's possession or use of the cannabis complies with Title 58, Chapter 85, Utah Right to Try Act.]~~

Section 117. Section 58-37-3.6 (Effective 07/01/19) is amended to read:

58-37-3.6 (Effective 07/01/19). Exemption for possession or distribution of a cannabinoid product or expanded cannabinoid product pursuant to an approved study.

(1) As used in this section:

~~[(a) "Cannabidiol product" means the same as that term is defined in Section 4-41-102;]~~

~~[(b)]~~ (a) "Cannabinoid product" means a product intended for human ingestion that:

(i) contains an extract or concentrate that is obtained from cannabis;

(ii) is prepared in a medicinal dosage form; and

(iii) contains at least 10 units of cannabidiol for every one unit of tetrahydrocannabinol.

~~[(c)]~~ (b) "Cannabis" means any part of the plant cannabis sativa, whether growing or not.

~~[(d)]~~ (c) "Drug paraphernalia" means the same as that term is defined in Section

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5266 58-37a-3.

5267 [(e)] (d) "Expanded cannabinoid product" means a product intended for human
5268 ingestion that:

- 5269 (i) contains an extract or concentrate that is obtained from cannabis;
5270 (ii) is prepared in a medicinal dosage form; and
5271 (iii) contains less than 10 units of cannabidiol for every one unit of
5272 tetrahydrocannabinol.

5273 [(f)] (e) "Medicinal dosage form" means:

- 5274 (i) a tablet;
5275 (ii) a capsule;
5276 (iii) a concentrated oil;
5277 (iv) a liquid suspension;
5278 (v) a transdermal preparation; or
5279 (vi) a sublingual preparation.

5280 [(g)] (f) "Tetrahydrocannabinol" means a substance derived from cannabis that meets
5281 the description in Subsection 58-37-4(2)(a)(iii)(AA).

5282 (2) Notwithstanding any other provision of this chapter[; (a)] an individual who
5283 possesses or distributes a cannabinoid product or an expanded cannabinoid product is not
5284 subject to the penalties described in this title for the possession or distribution of marijuana or
5285 tetrahydrocannabinol to the extent that the individual's possession or distribution of the
5286 cannabinoid product or expanded cannabinoid product complies with Title 26, Chapter 61,
5287 Cannabinoid Research Act[;].

5288 [(b) an individual who grows, processes, possesses, transports, or distributes
5289 cannabidiol for medicinal use or a hemp-grade product that is intended to be processed into
5290 cannabidiol for medicinal use, is not subject to the penalties described in this title to the extent
5291 that the individual's growth, processing, possession, transportation, or distribution of the
5292 cannabidiol or hemp-grade product is in compliance with Title 4, Chapter 43, Cannabidiol
5293 Producers; and]

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5294 ~~[(c) a person who processes, possesses, or sells cannabidiol is not subject to the~~
 5295 ~~penalties described in this title if:]~~

5296 ~~[(i) the person is a cannabidiol-qualified pharmacy; or]~~

5297 ~~[(ii) the person is an individual whose physician has recommended use of the~~
 5298 ~~cannabidiol and the individual purchased the cannabidiol from a cannabidiol-qualified~~
 5299 ~~pharmacy:]~~

5300 ~~[(3) Notwithstanding any other provision of this chapter, an individual who grows,~~
 5301 ~~processes, or possesses cannabis is not subject to the penalties described in this title for the~~
 5302 ~~growth, processing, or possession of marijuana to the extent that the individual is authorized to~~
 5303 ~~grow, process, or possess the cannabis under Section 4-41-203 and is in compliance with any~~
 5304 ~~rules made pursuant to Section 4-41-204.]~~

5305 ~~[(4) Notwithstanding any other provision of this chapter, an individual who possesses~~
 5306 ~~or uses cannabis in a medicinal dosage form is not subject to the penalties described in this title~~
 5307 ~~for the possession or use of marijuana or tetrahydrocannabinol to the extent that the individual's~~
 5308 ~~possession or use of the cannabis complies with Title 58, Chapter 85, Utah Right to Try Act.]~~

5309 Section 118. Section **58-37-3.7** is amended to read:

5310 **58-37-3.7. Medical cannabis decriminalization.**

5311 (1) As used in this section:

5312 (a) "Cannabis" means the same as that term is defined in Section 26-61a-102.

5313 (b) "Cannabis product" means the same as that term is defined in Section 26-61a-102.

5314 (c) "Medical cannabis card" means the same as that term is defined in Section
 5315 26-61a-102.

5316 (d) "Medical cannabis device" means the same as that term is defined in Section
 5317 26-61a-102.

5318 (e) "Medical cannabis pharmacy" means the same as that term is defined in Section
 5319 26-61a-102.

5320 (f) "Medicinal dosage form" means the same as that term is defined in Section
 5321 26-61a-102.

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5322 (g) "Qualified medical provider" means the same as that term is defined in Section
 5323 26-61a-102.

5324 (h) "Qualifying condition" means the same as that term is defined in Section
 5325 26-61a-102.

5326 (i) "Tetrahydrocannabinol" means the same as that term is defined in Section
 5327 58-37-3.9.

5328 ~~[(1)]~~ (2) Before [July] January 1, [2020] 2021, [it is an affirmative defense to criminal
 5329 charges against an individual] an individual is not guilty under this chapter for the use[;] or
 5330 possession[; or manufacture] of marijuana, tetrahydrocannabinol, or marijuana drug
 5331 paraphernalia [under this chapter that] if:

5332 (a) at the time of the arrest, the individual [would be eligible for a medical cannabis
 5333 card, and that the individuals conduct would have been lawful, after July 1, 2020.]:

5334 (i) (A) had been diagnosed with a qualifying condition; and

5335 (B) had a pre-existing provider-patient relationship with an advanced practice
 5336 registered nurse licensed under Title 58, Chapter 31b, Nurse Practice Act, a physician licensed
 5337 under Title 58, Chapter 67, Utah Medical Practice Act, a physician licensed under Title 58,
 5338 Chapter 68, Utah Osteopathic Medical Practice Act, or a physician assistant licensed under
 5339 Title 58, Chapter 70a, Physician Assistant Act, who believed that the individual's illness

5340 described in Subsection (2)(a)(i)(A) could benefit from the use in question; or

5341 (ii) (A) for possession, was a medical cannabis cardholder; or

5342 (B) for use, was a medical cannabis patient cardholder or a minor with a qualifying
 5343 condition under the supervision of a medical cannabis guardian cardholder; and

5344 (b) the marijuana or tetrahydrocannabinol was in a medicinal dosage form in a quantity
 5345 described in Subsection 26-61a-502(2).

5346 ~~[(2)]~~ (3) [It is an affirmative defense to criminal charges against an individual] An
 5347 individual is not guilty under this chapter for the use or possession of marijuana,
 5348 tetrahydrocannabinol, or marijuana drug paraphernalia under this chapter if:

5349 (a) at the time of the arrest, the individual:

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5350 (i) ~~[is a]~~ was not a resident of Utah or has been a resident of Utah for less than 45 days
 5351 ~~[and was issued];~~

5352 (ii) had a currently valid medical cannabis ~~[identification]~~ card or ~~[its]~~ the equivalent of
 5353 a medical cannabis card under the laws of another state, district, territory, commonwealth, or
 5354 insular possession of the United States; and

5355 ~~[(b)]~~ (iii) ~~[the individual has]~~ had been diagnosed with a qualifying ~~[illness]~~ condition
 5356 as described in Section ~~[26-60b-105.]~~ 26-61a-104; and

5357 (b) the marijuana or tetrahydrocannabinol is in a medicinal dosage form in a quantity
 5358 described in Subsection 26-61a-502(2).

5359 ~~[(3) A court shall, for charges that the court dismisses under Subsection (1) or~~
 5360 ~~Subsection (2), dismiss the charges without prejudice.]~~

5361 Section 119. Section ~~58-37-3.8~~ is amended to read:

5362 **58-37-3.8. Enforcement.**

5363 (1) ~~[No]~~ A law enforcement officer ~~[employed by an agency that receives state or local~~
 5364 ~~government funds shall]~~, as that term is defined in Section 53-13-103, except for an officially
 5365 designated drug enforcement task force regarding conduct that is not in accordance with Title
 5366 26, Chapter 61a, Utah Medical Cannabis Act, may not expend any state or local resources,
 5367 including the officer's time, to:

5368 (a) effect any arrest or seizure of cannabis, as that term is defined in Section
 5369 26-61a-102, or conduct any investigation, on the sole basis of activity the officer believes to
 5370 constitute a violation of federal law if the officer has reason to believe that ~~[such]~~ the activity is
 5371 in compliance with the state medical cannabis laws~~[-nor shall any such officer expend any~~
 5372 ~~state or local resources, including the officer's time, to];~~

5373 (b) enforce a law that restricts an individual's right to acquire, own, or possess a
 5374 firearm based solely on the individual's possession or use of cannabis in accordance with state
 5375 medical cannabis laws; or

5376 (c) provide any information or logistical support related to [such] an activity described
 5377 in Subsection (1)(a) to any federal law enforcement authority or prosecuting entity.

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(2) ~~[No]~~ An agency or political subdivision of ~~[Utah]~~ the state may ~~[rely on a violation of federal law as the sole basis for taking]~~ not take an adverse action against a person for providing a professional ~~[services]~~ service to a medical cannabis ~~[dispensary]~~ pharmacy, as that term is defined in Section 26-61a-102, the state central fill medical cannabis pharmacy, as that term is defined in Section 26-61a-102, or a cannabis production establishment ~~[if the person has not violated the state medical cannabis laws]~~, as that term is defined in Section 4-41a-102, on the sole basis that the service is a violation of federal law.

Section 120. Section ~~58-37-3.9~~ is amended to read:

58-37-3.9. Exemption for possession or use of cannabis to treat a qualifying illness.

(1) As used in this section:

(a) "Cannabis" means marijuana.

~~[(b) "Cannabis dispensary" means the same as that term is defined in Section 26-60b-102;]~~

~~[(c) (b) "Cannabis product" means [a product that: (i) is intended for human ingestion; and (ii) contains cannabis or tetrahydrocannabinol] the same as that term is defined in Section 26-61a-102.]~~

~~[(d) "Designated caregiver" means the same as that term is defined in Section 26-60b-102;]~~

~~[(e) (c) "Drug paraphernalia" means the same as that term is defined in Section 58-37a-3.]~~

~~[(f) "Marijuana" means the same as that term is defined in Section 58-37-2.]~~

~~[(g) (d) "Medical cannabis [card] cardholder" means the same as that term is defined in Section [26-60b-102] 26-61a-102.]~~

~~[(h) (e) [(i) "Medical cannabis device" means [a device that an individual uses to ingest cannabis or a cannabis product] the same as that term is defined in Section 26-61a-102.]~~

~~[(ii) "Medical cannabis device" does not include a device that facilitates cannabis combustion at a temperature of greater than 750 degrees Fahrenheit;]~~

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5406 [(i)] (f) "~~[Qualifying illness]~~ Medicinal dosage form" means the same as that term is
 5407 defined in Section ~~[26-60b-102]~~ 26-61a-102.

5408 [(j)] (g) "Tetrahydrocannabinol" means a substance derived from cannabis ~~[that meets~~
 5409 ~~the description]~~ or a synthetic description as described in Subsection 58-37-4(2)(a)(iii)(AA).

5410 (2) Notwithstanding any other provision of law, except as otherwise provided in this
 5411 section:

5412 (a) an individual ~~[who]~~ is not guilty of a violation of this title for the following conduct
 5413 if the individual engages in the conduct in accordance with Title 4, Chapter 41a, Cannabis
 5414 Production Establishments, or Title 26, Chapter 61a, Utah Medical Cannabis Act:

5415 (i) ~~[possesses, produces, manufactures, dispenses, distributes, sells, or offers]~~
 5416 possessing, ingesting, producing, manufacturing, dispensing, distributing, selling, or offering to
 5417 sell cannabis or a cannabis product; or [who possesses]

5418 (ii) possessing cannabis or a cannabis product with the intent to [produce, manufacture,
 5419 dispense, distribute, sell, or offer to sell cannabis or a cannabis product is not subject to the
 5420 penalties described in this title for] engage in the conduct [to the extent that the individual's
 5421 conduct complies with:] described in Subsection (2)(a)(i); and

5422 [(i)] (b) an individual is guilty of a violation of this title regarding drug paraphernalia if
 5423 the individual, in accordance with Title 4, Chapter [41b] 41a, Cannabis Production

5424 [Establishment;] Establishments, and [(ii)] Title 26, Chapter [60b] 61a, Utah Medical
 5425 Cannabis Act[;]:

5426 [(b)] (i) ~~[an individual who]~~ possesses, manufactures, distributes, sells, or offers to sell
 5427 a medical cannabis device; or

5428 (ii) ~~[who]~~ possesses a medical cannabis device with the intent to [manufacture,
 5429 distribute, sell, or offer to sell a medical cannabis device is authorized and is not subject to the
 5430 penalties described in this title for the possession, manufacture, distribution, sale, or offer for
 5431 sale of drug paraphernalia to the extent that the individual's] engage in any of the conduct
 5432 [complies with:] described in Subsection (2)(b)(i).

5433 [(i)] Title 4, Chapter 41b, Cannabis Production Establishment; and]

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5434 ~~[(ii) Title 26, Chapter 60b, Medical Cannabis Act.]~~

5435 ~~[(3) For purposes of state law, except as otherwise provided in this section, activities~~
 5436 ~~related to cannabis shall be considered lawful and any cannabis consumed shall be considered~~
 5437 ~~legally ingested, as long as the conduct is in accordance with:]~~

5438 ~~[(a) Title 4, Chapter 41b, Cannabis Production Establishment; and]~~

5439 ~~[(b) Title 26, Chapter 60b, Medical Cannabis Act.]~~

5440 ~~[(4)]~~ (3) (a) As used in this Subsection (3), "smoking" does not include the
 5441 vaporization or heating of medical cannabis.

5442 (b) [It is not lawful for] Title 26, Chapter 61a, Utah Medical Cannabis Act, does not
 5443 authorize a medical cannabis [card holder] cardholder to smoke or combust cannabis or to use
 5444 a device to facilitate the smoking or combustion of cannabis. [An individual convicted of
 5445 violating this section is guilty of an infraction. For purposes of this section, smoking does not
 5446 include a means of administration that involves cannabis combustion at a temperature that is
 5447 not greater than 750 degrees Fahrenheit and that does not involve using a flame.]

5448 (c) A medical cannabis cardholder who smokes cannabis or engages in any other
 5449 conduct described in Subsection (3)(b):

5450 (i) does not possess the cannabis in accordance with Title 26, Chapter 61a, Utah
 5451 Medical Cannabis Act; and

5452 (ii) is subject to charges under this chapter for the use or possession of marijuana,
 5453 tetrahydrocannabinol, or marijuana drug paraphernalia for the conduct described in Subsection
 5454 (3)(b).

5455 ~~[(5) An individual is not exempt from the penalties described in this title for ingesting~~
 5456 ~~cannabis or a cannabis product while operating a motor vehicle.]~~

5457 ~~[(6)]~~ (4) An individual who is assessed a penalty or convicted of ~~[an infraction]~~ a crime
 5458 under Title 4, Chapter [41b] 41a, Cannabis Production [Establishment] Establishments, or Title
 5459 26, Chapter [60b] 61a, Utah Medical Cannabis Act, is not, based on the conduct underlying
 5460 that penalty or conviction, subject to [the penalties] a penalty described in this chapter for:

5461 (a) the possession, manufacture, sale, or offer for sale of cannabis or a cannabis

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5462 product; or

5463 (b) the possession, manufacture, sale, or offer for sale of drug paraphernalia.

5464 Section 121. Section **58-37f-203 (Effective 07/01/19)** is amended to read:

5465 **58-37f-203 (Effective 07/01/19). Submission, collection, and maintenance of data.**

5466 (1) (a) The division shall implement on a statewide basis, including non-resident
5467 pharmacies as defined in Section **58-17b-102**, the following two options for a pharmacist to
5468 submit information:

5469 (i) real-time submission of the information required to be submitted under this part to
5470 the controlled substance database; and

5471 (ii) 24-hour daily or next business day, whichever is later, batch submission of the
5472 information required to be submitted under this part to the controlled substance database.

5473 (b) (i) On and after January 1, 2016, a pharmacist shall comply with either:

5474 (A) the submission time requirements established by the division under Subsection
5475 (1)(a)(i); or

5476 (B) the submission time requirements established by the division under Subsection
5477 (1)(a)(ii).

5478 (ii) Prior to January 1, 2016, a pharmacist may submit information using either option
5479 under this Subsection (1).

5480 (c) The division shall comply with Title 63G, Chapter 6a, Utah Procurement Code.

5481 (2) (a) The pharmacist-in-charge and the pharmacist of the drug outlet where a
5482 controlled substance is dispensed shall submit the data described in this section to the division
5483 in accordance with:

5484 (i) the requirements of this section;

5485 (ii) the procedures established by the division;

5486 (iii) additional types of information or data fields established by the division; and

5487 (iv) the format established by the division.

5488 (b) A dispensing medical practitioner licensed under Chapter 17b, Part 8, Dispensing
5489 Medical Practitioner and Dispensing Medical Practitioner Clinic Pharmacy, shall comply with

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5490 the provisions of this section and the dispensing medical practitioner shall assume the duties of
5491 the pharmacist under this chapter.

5492 (3) ~~[(a)]~~ The pharmacist-in-charge and the pharmacist described in Subsection (2)
5493 shall, for each controlled substance dispensed by a pharmacist under the pharmacist's
5494 supervision other than those dispensed for an inpatient at a health care facility, submit to the
5495 division any type of information or data field established by the division by rule in accordance
5496 with Subsection (6).

5497 ~~[(b) The pharmacist described in Subsection (2) shall, in the case of a~~
5498 ~~cannabidiol-qualified pharmacy dispensing a cannabidiol product, submit the following~~
5499 ~~information to the division:]~~

5500 ~~[(i) the name of the recommending physician;]~~

5501 ~~[(ii) the date of the recommendation;]~~

5502 ~~[(iii) the date the recommendation was filled by the cannabidiol-qualified pharmacy;]~~

5503 ~~[(iv) the name of the individual for whom the recommendation was written; and]~~

5504 ~~[(v) any other information the division requires by rule, made in accordance with Title~~
5505 ~~63G, Chapter 3, Utah Administrative Rulemaking Act.]~~

5506 (4) An individual whose records are in the database may obtain those records upon
5507 submission of a written request to the division.

5508 (5) (a) A patient whose record is in the database may contact the division in writing to
5509 request correction of any of the patient's database information that is incorrect. The patient
5510 shall provide a postal address for the division's response.

5511 (b) The division shall grant or deny the request within 30 days from receipt of the
5512 request and shall advise the requesting patient of its decision by mail postmarked within 35
5513 days of receipt of the request.

5514 (c) If the division denies a request under this Subsection (5) or does not respond within
5515 35 days, the patient may submit an appeal to the Department of Commerce, within 60 days
5516 after the postmark date of the patient's letter making a request for a correction under this
5517 Subsection (5).

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5518 (6) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah
5519 Administrative Rulemaking Act, to establish submission requirements under this part,
5520 including:

- 5521 (a) electronic format;
- 5522 (b) submission procedures; and
- 5523 (c) required information and data fields.

5524 (7) The division shall ensure that the database system records and maintains for
5525 reference:

- 5526 (a) the identification of each individual who requests or receives information from the
5527 database;
- 5528 (b) the information provided to each individual; and
- 5529 (c) the date and time that the information is requested or provided.

5530 Section 122. Section **58-67-304** is amended to read:

5531 **58-67-304. License renewal requirements.**

5532 (1) As a condition precedent for license renewal, each licensee shall, during each
5533 two-year licensure cycle or other cycle defined by division rule:

- 5534 (a) complete qualified continuing professional education requirements in accordance
5535 with the number of hours and standards defined by division rule made in collaboration with the
5536 board;

5537 (b) appoint a contact person for access to medical records and an alternate contact
5538 person for access to medical records in accordance with Subsection **58-67-302(1)(j)**;

5539 (c) if the licensee practices medicine in a location with no other persons licensed under
5540 this chapter, provide some method of notice to the licensee's patients of the identity and
5541 location of the contact person and alternate contact person for the licensee; and

5542 (d) if the licensee is an associate physician licensed under Section **58-67-302.8**,
5543 successfully complete the educational methods and programs described in Subsection
5544 **58-67-807(4)**.

5545 (2) If a renewal period is extended or shortened under Section **58-67-303**, the

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5546 continuing education hours required for license renewal under this section are increased or
 5547 decreased proportionally.

5548 (3) An application to renew a license under this chapter shall:

5549 (a) require a physician to answer the following question: "Do you perform elective
 5550 abortions in Utah in a location other than a hospital?"; and

5551 (b) immediately following the question, contain the following statement: "For purposes
 5552 of the immediately preceding question, elective abortion means an abortion other than one of
 5553 the following: removal of a dead fetus, removal of an ectopic pregnancy, an abortion that is
 5554 necessary to avert the death of a woman, an abortion that is necessary to avert a serious risk of
 5555 substantial and irreversible impairment of a major bodily function of a woman, an abortion of a
 5556 fetus that has a defect that is uniformly diagnosable and uniformly lethal, or an abortion where
 5557 the woman is pregnant as a result of rape or incest."

5558 (4) In order to assist the Department of Health in fulfilling its responsibilities relating
 5559 to the licensing of an abortion clinic and the enforcement of Title 76, Chapter 7, Part 3,
 5560 Abortion, if a physician responds positively to the question described in Subsection (3)(a), the
 5561 division shall, within 30 days after the day on which it renews the physician's license under this
 5562 chapter, inform the Department of Health in writing:

5563 (a) of the name and business address of the physician; and

5564 (b) that the physician responded positively to the question described in Subsection
 5565 (3)(a).

5566 (5) The division shall accept and apply toward the hour requirement in Subsection
 5567 (1)(a) and continuing education that a physician completes in accordance with Sections
 5568 26-61a-106, 26-61a-403, and 26-61a-601.

5569 Section 123. Section **58-67-502** is amended to read:

5570 **58-67-502. Unprofessional conduct.**

5571 (1) "Unprofessional conduct" includes, in addition to the definition in Section
 5572 **58-1-501**:

5573 (a) using or employing the services of any individual to assist a licensee in any manner

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not in accordance with the generally recognized practices, standards, or ethics of the profession, state law, or division rule;

(b) making a material misrepresentation regarding the qualifications for licensure under Section [58-67-302.7](#) or Section [58-67-302.8](#); ~~[or]~~

(c) violating the dispensing requirements of Chapter 17b, Part 8, Dispensing Medical Practitioner and Dispensing Medical Practitioner Clinic Pharmacy, if applicable~~[-];~~ or

(d) violating the requirements of Title 26, Chapter 61a, Utah Medical Cannabis Act.

(2) "Unprofessional conduct" does not include~~[-];~~

(a) in compliance with Section [58-85-103](#):

~~[a)]~~ (i) obtaining an investigational drug or investigational device;

~~[b)]~~ (ii) administering the investigational drug to an eligible patient; or

~~[c)]~~ (iii) treating an eligible patient with the investigational drug or investigational device~~[-];~~ or

(b) in accordance with Title 26, Chapter 61a, Utah Medical Cannabis Act:

(i) when registered as a qualified medical provider, as that term is defined in Section [26-61a-102](#), recommending the use of medical cannabis;

(ii) when registered as a pharmacy medical provider, as that term is defined in Section [26-61a-102](#), providing pharmacy medical provider services in a medical cannabis pharmacy; or

(iii) when registered as a state central fill medical provider, as that term is defined in Section [26-61a-102](#), providing state central fill medical provider services in the state central fill medical cannabis pharmacy.

(3) Notwithstanding Subsection (2)(b), the division, in consultation with the board and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, shall define unprofessional conduct for a pharmacist described in Subsection (2)(b).

Section 124. Section **58-68-304** is amended to read:

58-68-304. License renewal requirements.

(1) As a condition precedent for license renewal, each licensee shall, during each two-year licensure cycle or other cycle defined by division rule:

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(a) complete qualified continuing professional education requirements in accordance with the number of hours and standards defined by division rule in collaboration with the board;

(b) appoint a contact person for access to medical records and an alternate contact person for access to medical records in accordance with Subsection 58-68-302(1)(j);

(c) if the licensee practices osteopathic medicine in a location with no other persons licensed under this chapter, provide some method of notice to the licensee's patients of the identity and location of the contact person and alternate contact person for access to medical records for the licensee in accordance with Subsection 58-68-302(1)(k); and

(d) if the licensee is an associate physician licensed under Section 58-68-302.5, successfully complete the educational methods and programs described in Subsection 58-68-807(4).

(2) If a renewal period is extended or shortened under Section 58-68-303, the continuing education hours required for license renewal under this section are increased or decreased proportionally.

(3) An application to renew a license under this chapter shall:

(a) require a physician to answer the following question: "Do you perform elective abortions in Utah in a location other than a hospital?"; and

(b) immediately following the question, contain the following statement: "For purposes of the immediately preceding question, elective abortion means an abortion other than one of the following: removal of a dead fetus, removal of an ectopic pregnancy, an abortion that is necessary to avert the death of a woman, an abortion that is necessary to avert a serious risk of substantial and irreversible impairment of a major bodily function of a woman, an abortion of a fetus that has a defect that is uniformly diagnosable and uniformly lethal, or an abortion where the woman is pregnant as a result of rape or incest."

(4) In order to assist the Department of Health in fulfilling its responsibilities relating to the licensing of an abortion clinic, if a physician responds positively to the question described in Subsection (3)(a), the division shall, within 30 days after the day on which it

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5630 renews the physician's license under this chapter, inform the Department of Health in writing:

5631 (a) of the name and business address of the physician; and

5632 (b) that the physician responded positively to the question described in Subsection

5633 (3)(a).

5634 (5) The division shall accept and apply toward the hour requirement in Subsection

5635 (1)(a) and continuing education that a physician completes in accordance with Sections

5636 26-61a-106, 26-61a-403, and 26-61a-601.

5637 Section 125. Section **58-68-502** is amended to read:

5638 **58-68-502. Unprofessional conduct.**

5639 (1) "Unprofessional conduct" includes, in addition to the definition in Section

5640 58-1-501:

5641 (a) using or employing the services of any individual to assist a licensee in any manner
5642 not in accordance with the generally recognized practices, standards, or ethics of the
5643 profession, state law, or division rule;

5644 (b) violating the dispensing requirements of Chapter 17b, Part 8, Dispensing Medical
5645 Practitioner and Dispensing Medical Practitioner Clinic Pharmacy, if applicable; ~~or~~

5646 (c) making a material misrepresentation regarding the qualifications for licensure under
5647 Section 58-68-302.5~~;~~ or

5648 (d) violating the requirements of Title 26, Chapter 61a, Utah Medical Cannabis Act.

5649 (2) "Unprofessional conduct" does not include~~;~~:

5650 (a) in compliance with Section 58-85-103:

5651 ~~[(a)]~~ (i) obtaining an investigational drug or investigational device;

5652 ~~[(b)]~~ (ii) administering the investigational drug to an eligible patient; or

5653 ~~[(c)]~~ (iii) treating an eligible patient with the investigational drug or investigational
5654 device~~;~~ or

5655 (b) in accordance with Title 26, Chapter 61a, Utah Medical Cannabis Act:

5656 (i) when registered as a qualified medical provider, as that term is defined in Section

5657 26-61a-102, recommending the use of medical cannabis;

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(ii) when registered as a pharmacy medical provider, as that term is defined in Section 26-61a-102, providing pharmacy medical provider services in a medical cannabis pharmacy; or

(iii) when registered as a state central fill medical provider, as that term is defined in Section 26-61a-102, providing state central fill medical provider services in the state central fill medical cannabis pharmacy.

(3) Notwithstanding Subsection (2)(b), the division, in consultation with the board and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, shall define unprofessional conduct for a pharmacist described in Subsection (2)(b).

Section 126. Section **58-70a-303** is amended to read:

58-70a-303. Term of license -- Expiration -- Renewal.

(1) (a) The division shall issue each license under this chapter in accordance with a two-year renewal cycle established by division rule.

(b) The division may by rule extend or shorten a renewal period by as much as one year to stagger the renewal cycles it administers.

(2) At the time of renewal, the licensee shall show compliance with continuing education renewal requirements.

(3) Each license issued under this chapter expires on the expiration date shown on the license unless renewed in accordance with Section **58-1-308**.

(4) The division shall accept and apply toward an hour requirement that the division establishes under Subsection (2) continuing education that a physician assistant completes in accordance with Section 26-61a-106.

Section 127. Section **58-70a-503** is amended to read:

58-70a-503. Unprofessional conduct.

(1) "Unprofessional conduct" includes:

~~[(1)]~~ (a) violation of a patient confidence to any person who does not have a legal right and a professional need to know the information concerning the patient;

~~[(2)]~~ (b) knowingly prescribing, selling, giving away, or directly or indirectly administering, or offering to prescribe, sell, furnish, give away, or administer any prescription

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drug except for a legitimate medical purpose upon a proper diagnosis indicating use of that drug in the amounts prescribed or provided;

~~[(3)]~~ (c) prescribing prescription drugs for oneself or administering prescription drugs to oneself, except those that have been legally prescribed for the physician assistant by a licensed practitioner and that are used in accordance with the prescription order for the condition diagnosed;

~~[(4)]~~ (d) failure to maintain at the practice site a delegation of services agreement that accurately reflects current practices;

~~[(5)]~~ (e) failure to make the delegation of services agreement available to the division for review upon request;

~~[(6)]~~ (f) in a practice that has physician assistant ownership interests, failure to allow the supervising physician the independent final decision making authority on patient treatment decisions, as set forth in the delegation of services agreement or as defined by rule; and

~~[(7)]~~ (g) violating the dispensing requirements of Chapter 17b, Part 8, Dispensing Medical Practitioner and Dispensing Medical Practitioner Clinic Pharmacy, if applicable.

(2) "Unprofessional conduct" does not include, in accordance with Title 26, Chapter 61a, Utah Medical Cannabis Act, when registered as a qualified medical provider, as that term is defined in Section 26-61a-102, recommending the use of medical cannabis.

(3) Notwithstanding Subsection (2), the division, in consultation with the board and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, shall define unprofessional conduct for a physician assistant described in Subsection (2).

Section 128. Section **58-85-102** is amended to read:

58-85-102. Definitions.

As used in this chapter:

~~[(1) "Cannabis" means cannabis that has been grown by a state-approved grower and processed into a medicinal dosage form.]~~

~~[(2) "Cannabis-based treatment" means a course of treatment involving cannabis.]~~

~~[(3)]~~ (1) "Eligible patient" means an individual who has been diagnosed with a

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5714 terminal illness by a physician.

5715 ~~[(4)]~~ "Health care facility" means the same as that term is defined in Section
5716 ~~26-55-102.~~

5717 ~~[(5)]~~ (2) "Insurer" means the same as that term is defined in Section ~~31A-1-301~~.

5718 ~~[(6)]~~ (3) "Investigational device" means a device that:

5719 (a) meets the definition of "investigational device" in 21 C.F.R. Sec. 812.3; and

5720 (b) has successfully completed the United States Food and Drug Administration Phase
5721 1 testing for an investigational device described in 21 C.F.R. Part 812.

5722 ~~[(7)]~~ (4) "Investigational drug" means a drug that:

5723 (a) meets the definition of "investigational new drug" in 21 C.F.R. Sec. 312.3; and

5724 (b) has successfully completed the United States Food and Drug Administration Phase
5725 1 testing for an investigational new drug described in 21 C.F.R. Part 312.

5726 ~~[(8)]~~ (5) "Medicinal dosage form" means the same as that term is defined in Section
5727 ~~58-37-3.6~~.

5728 ~~[(9)]~~ (6) "Physician" means an individual who is licensed under:

5729 (a) Title 58, Chapter 67, Utah Medical Practice Act; or

5730 (b) Title 58, Chapter 68, Utah Osteopathic Medical Practice Act.

5731 ~~[(10)]~~ "State-approved grower and processor" means a person who grows cannabis
5732 pursuant to state law and processes the cannabis into a medicinal dosage form.]

5733 ~~[(11)]~~ (7) "Terminal illness" means a condition of a patient that:

5734 (a) as determined by a physician:

5735 (i) is likely to pose a greater risk to the patient than the risk posed to the patient by
5736 treatment with an investigational drug or investigational device; and

5737 (ii) will inevitably lead to the patient's death; and

5738 (b) presents the patient, after the patient has explored conventional therapy options,
5739 with no treatment option that is satisfactory or comparable to treatment with an investigational
5740 drug or device.

5741 Section 129. Section ~~58-85-104~~ is amended to read:

H.B. 3001**Enrolled Copy****58-85-104. Standard of care -- Medical practitioners not liable -- No private right of action.**

(1) ~~[(a)]~~ It is not a breach of the applicable standard of care for a physician, other licensed health care provider, or hospital to treat an eligible patient with an investigational drug or investigational device under this chapter.

~~[(b) It is not a breach of the applicable standard of care for a physician to recommend a cannabis-based treatment to a terminally ill patient under this chapter, or a health care facility to aid or assist in any way a terminally ill patient's use of cannabis.]~~

(2) A physician, other licensed health care provider, or hospital that treats an eligible patient with an investigational drug or investigational device under this chapter~~[, or a physician who recommends a cannabis-based treatment to a terminally ill patient or a health care facility that facilitates a terminally ill patient's recommended use of a cannabis-based treatment under this chapter,]~~ may not, for any harm done to the eligible patient by the investigational drug or device, ~~[or for any harm done to the terminally ill patient by the cannabis-based treatment,]~~ be subject to:

(a) civil liability;

(b) criminal liability; or

(c) licensure sanctions under:

(i) for a physician:

(A) Title 58, Chapter 67, Utah Medical Practice Act; or

(B) Title 58, Chapter 68, Utah Osteopathic Medical Practice Act;

(ii) for the other licensed health care provider, the act governing the other licensed health care provider's license; or

(iii) for the hospital ~~[or health care facility]~~, Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act.

(3) This chapter does not:

(a) require a manufacturer of an investigational drug or investigational device to agree to make an investigational drug or investigational device available to an eligible patient or an

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5770 eligible patient's physician;

5771 (b) require a physician to agree to:

5772 (i) administer an investigational drug to an eligible patient under this chapter; or

5773 (ii) treat an eligible patient with an investigational device under this chapter; or

5774 [~~(iii) recommend a cannabis-based treatment to a terminally ill patient; or~~]

5775 (c) create a private right of action for an eligible patient:

5776 (i) against a physician or hospital, for the physician's or hospital's refusal to:

5777 (A) administer an investigational drug to an eligible patient under this chapter; or

5778 (B) treat an eligible patient with an investigational device under this chapter; or

5779 [~~(C) recommend a cannabis-based treatment to the terminally ill patient; or~~]

5780 (ii) against a manufacturer, for the manufacturer's refusal to provide an eligible patient
5781 with an investigational drug or an investigational device under this chapter.

5782 Section 130. Section **58-85-105** is amended to read:

5783 **58-85-105. Insurance coverage.**

5784 (1) This chapter does not:

5785 (a) require an insurer to cover the cost of:

5786 (i) administering an investigational drug under this chapter; or

5787 (ii) treating a patient with an investigational device under this chapter; or

5788 [~~(iii) a cannabis-based treatment; or~~]

5789 (b) prohibit an insurer from covering the cost of:

5790 (i) administering an investigational drug under this chapter; or

5791 (ii) treating a patient with an investigational device under this chapter[~~;~~or].

5792 [~~(iii) a cannabis-based treatment.~~]

5793 (2) Except as described in Subsection (3), an insurer may deny coverage to an eligible

5794 patient who is treated with an investigational drug or investigational device, for harm to the

5795 eligible patient caused by the investigational drug or investigational device.

5796 (3) An insurer may not deny coverage to an eligible patient under Subsection (2) for:

5797 (a) the eligible patient's preexisting condition;

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(b) benefits that commenced before the day on which the eligible patient is treated with the investigational drug or investigational device; or

(c) palliative or hospice care for an eligible patient that has been treated with an investigational drug or device, but is no longer receiving curative treatment with the investigational drug or device.

Section 131. Section **59-12-104.10** is enacted to read:

59-12-104.10. Exemption from sales tax for cannabis.

(1) As used in this section:

(a) "Cannabis" means the same as that term is defined in Section [26-61a-102](#).

(b) "Cannabis product" means the same as that term is defined in Section [26-61a-102](#).

(c) "Medical cannabis device" means the same as that term is defined in Section [26-61a-102](#).

(d) "Medical cannabis pharmacy" means the same as that term is defined in Section [26-61a-102](#).

(e) "Medicinal dosage form" means the same as that term is defined in Section [26-61a-102](#).

(f) "State central fill medical cannabis pharmacy" means the same as that term is defined in Section [26-61a-102](#).

(2) In addition to the exemptions described in Section [59-12-104](#), the sale by a licensed medical cannabis pharmacy or the state central fill medical cannabis pharmacy of the following is not subject to the taxes this chapter imposes:

(a) cannabis in a medicinal dosage form; or

(b) a cannabis product in a medicinal dosage form.

(3) The sale of a medical cannabis device by a medical cannabis pharmacy or the state central fill medical cannabis pharmacy is subject to the taxes this chapter imposes.

Section 132. Section **62A-3-322** is enacted to read:

62A-3-322. Medical cannabis use by a vulnerable adult or guardian.

A peace officer or an employee or agent of the division may not solicit or provide, and a

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5826 court may not order, emergency services for a vulnerable adult based solely on:

5827 (1) the vulnerable adult's possession or use of cannabis in accordance with Title 26,
 5828 Chapter 61a, Utah Medical Cannabis Act; or

5829 (2) the guardian of the vulnerable adult assisting with the use of or possessing cannabis
 5830 in accordance with Title 26, Chapter 61a, Utah Medical Cannabis Act.

5831 Section 133. Section **62A-4a-202.1** is amended to read:

5832 **62A-4a-202.1. Entering home of a child -- Taking a child into protective custody**
 5833 **-- Caseworker accompanied by peace officer -- Preventive services -- Shelter facility or**
 5834 **emergency placement.**

5835 (1) A peace officer or child welfare worker may not:

5836 (a) enter the home of a child who is not under the jurisdiction of the court, remove a
 5837 child from the child's home or school, or take a child into protective custody unless authorized
 5838 under Subsection **78A-6-106(2)**; or

5839 (b) remove a child from the child's home or take a child into custody under this section
 5840 solely on the basis of:

5841 (i) educational neglect, truancy, or failure to comply with a court order to attend
 5842 school; or

5843 (ii) the possession or use, in accordance with Title 26, Chapter 61a, Utah Medical
 5844 Cannabis Act, of cannabis in a medicinal dosage form, a cannabis product in a medicinal
 5845 dosage form, or a medical cannabis device [~~in the home, if the use and possession of the~~
 5846 ~~cannabis, cannabis product, or medical cannabis device is in compliance with Title 26, Chapter~~
 5847 ~~60b, Medical Cannabis Act]~~, as those terms are defined in Section **26-61a-102**.

5848 (2) A child welfare worker within the division may take action under Subsection ~~[(10)]~~
 5849 (1) accompanied by a peace officer, or without a peace officer when a peace officer is not
 5850 reasonably available.

5851 (3) (a) If possible, consistent with the child's safety and welfare, before taking a child
 5852 into protective custody, the child welfare worker shall also determine whether there are
 5853 services available that, if provided to a parent or guardian of the child, would eliminate the

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5854 need to remove the child from the custody of the child's parent or guardian.

5855 (b) If the services described in Subsection (3)(a) are reasonably available, they shall be
5856 utilized.

5857 (c) In determining whether the services described in Subsection (3)(a) are reasonably
5858 available, and in making reasonable efforts to provide those services, the child's health, safety,
5859 and welfare shall be the child welfare worker's paramount concern.

5860 (4) (a) A child removed or taken into custody under this section may not be placed or
5861 kept in a secure detention facility pending court proceedings unless the child is detainable
5862 based on guidelines promulgated by the Division of Juvenile Justice Services.

5863 (b) A child removed from the custody of the child's parent or guardian but who does
5864 not require physical restriction shall be given temporary care in:

5865 (i) a shelter facility; or

5866 (ii) an emergency placement in accordance with Section 62A-4a-209.

5867 (c) When making a placement under Subsection (4)(b), the Division of Child and
5868 Family Services shall give priority to a placement with a noncustodial parent, relative, or
5869 friend, in accordance with Section 62A-4a-209.

5870 ~~[(a)]~~ (d) If the child is not placed with a noncustodial parent, a relative, or a designated
5871 friend, the caseworker assigned to the child shall file a report with the caseworker's supervisor
5872 explaining why a different placement was in the child's best interest.

5873 (5) When a child is removed from the child's home or school or taken into protective
5874 custody, the caseworker shall give a parent of the child a pamphlet or flier explaining:

5875 (a) the parent's rights under this part, including the right to be present and participate in
5876 any court proceeding relating to the child's case;

5877 (b) that it may be in the parent's best interest to contact an attorney and that, if the
5878 parent cannot afford an attorney, the court will appoint one;

5879 (c) the name and contact information of a division employee the parent may contact
5880 with questions;

5881 (d) resources that are available to the parent, including:

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- 5882 (i) mental health resources;
- 5883 (ii) substance abuse resources; and
- 5884 (iii) parenting classes; and
- 5885 (e) any other information considered relevant by the division.
- 5886 (6) The pamphlet or flier described in Subsection (5) shall be:
- 5887 (a) evaluated periodically for its effectiveness at conveying necessary information and
- 5888 revised accordingly;
- 5889 (b) written in simple, easy-to-understand language; and
- 5890 (c) available in English and other languages as the division determines to be
- 5891 appropriate and necessary.

5892 Section 134. Section **63I-1-226** is amended to read:

5893 **63I-1-226. Repeal dates, Title 26.**

5894 (1) Section 26-1-40 is repealed July 1, 2019.

5895 [{+}] (2) Title 26, Chapter 9f, Utah Digital Health Service Commission Act, is repealed

5896 July 1, 2025.

5897 [{2}] (3) Section 26-10-11 is repealed July 1, 2020.

5898 (4) Subsection 26-18-417(3) is repealed July 1, 2020.

5899 [{3}] Section 26-21-23, Licensing of non-Medicaid nursing facility beds, is repealed

5900 July 1, 2018;]

5901 [{4}] (5) Title 26, Chapter 33a, Utah Health Data Authority Act, is repealed July 1,

5902 2024.

5903 (6) Title 26, Chapter 36b, Inpatient Hospital Assessment Act, is repealed July 1, 2024.

5904 (7) Title 26, Chapter 36c, Medicaid Expansion Hospital Assessment Act, is repealed

5905 July 1, 2024.

5906 [{5}] (8) Title 26, Chapter [36a] 36d, Hospital Provider Assessment Act, is repealed

5907 July 1, [2016] 2019.

5908 [{6}] Section 26-38-2.5 is repealed July 1, 2017;]

5909 [{7}] Section 26-38-2.6 is repealed July 1, 2017;]

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5910 ~~[(8)]~~ (9) Title 26, Chapter 56, Hemp Extract Registration Act, is repealed January 1,
5911 2019.

5912 (10) Title 26, Chapter 63, Nurse Home Visiting Pay-for-Success Program, is repealed
5913 July 1, 2026.

5914 Section 135. Section **63I-1-258** is amended to read:
5915 **63I-1-258. Repeal dates, Title 58.**

5916 (1) Title 58, Chapter 13, Health Care Providers Immunity from Liability Act, is
5917 repealed July 1, 2026.

5918 (2) Title 58, Chapter 15, Health Facility Administrator Act, is repealed July 1, 2025.

5919 (3) Title 58, Chapter ~~[20a]~~ 20b, Environmental Health Scientist Act, is repealed July 1,
5920 ~~[2018]~~ 2028.

5921 (4) Section 58-37-4.3 is repealed January 1, 2020.

5922 (5) Subsection 58-37-6(7)(f)(iii) is repealed July 1, 2022, and the Office of Legislative
5923 Research and General Counsel is authorized to renumber the remaining subsections
5924 accordingly.

5925 ~~[(5)]~~ (6) Title 58, Chapter 40, Recreational Therapy Practice Act, is repealed July 1,
5926 2023.

5927 ~~[(6)]~~ (7) Title 58, Chapter 41, Speech-Language Pathology and Audiology Licensing
5928 Act, is repealed July 1, 2019.

5929 ~~[(7)]~~ (8) Title 58, Chapter 42a, Occupational Therapy Practice Act, is repealed July 1,
5930 2025.

5931 ~~[(8)]~~ (9) Title 58, Chapter 46a, Hearing Instrument Specialist Licensing Act, is
5932 repealed July 1, 2023.

5933 ~~[(9)]~~ (10) Title 58, Chapter 47b, Massage Therapy Practice Act, is repealed July 1,
5934 2024.

5935 ~~[(10)]~~ (11) Title 58, Chapter 61, Part 7, Behavior Analyst Licensing Act, is repealed
5936 July 1, 2026.

5937 ~~[(11)]~~ (12) Title 58, Chapter 72, Acupuncture Licensing Act, is repealed July 1, 2027.

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5938 (13) Title 58, Chapter 86, State Certification of Commercial Interior Designers Act, is
 5939 repealed July 1, 2021.

5940 (14) The following sections are repealed on July 1, 2019:

5941 (a) Section [58-5a-502](#);

5942 (b) Section [58-31b-502.5](#);

5943 (c) Section [58-67-502.5](#);

5944 (d) Section [58-68-502.5](#); and

5945 (e) Section [58-69-502.5](#).

5946 Section 136. Section **67-19-33** is amended to read:

5947 **67-19-33. Controlled substances and alcohol use prohibited.**

5948 [An] Except as provided in Title 26, Chapter 61a, Utah Medical Cannabis Act, an
 5949 employee may not:

5950 (1) manufacture, dispense, possess, use, distribute, or be under the influence of a
 5951 controlled substance or alcohol during work hours or on state property except where legally
 5952 permissible;

5953 (2) manufacture, dispense, possess, use, or distribute a controlled substance or alcohol
 5954 if the activity prevents:

5955 (a) state agencies from receiving federal grants or performing under federal contracts of
 5956 \$25,000 or more; or

5957 (b) the employee to perform his services or work for state government effectively as
 5958 regulated by the rules of the executive director in accordance with Section [67-19-34](#); or

5959 (3) refuse to submit to a drug or alcohol test under Section [67-19-36](#).

5960 Section 137. Section **78A-6-508 (Superseded 07/01/19)** is amended to read:

5961 **78A-6-508 (Superseded 07/01/19). Evidence of grounds for termination.**

5962 (1) In determining whether a parent or parents have abandoned a child, it is prima facie
 5963 evidence of abandonment that the parent or parents:

5964 (a) although having legal custody of the child, have surrendered physical custody of the
 5965 child, and for a period of six months following the surrender have not manifested to the child

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or to the person having the physical custody of the child a firm intention to resume physical custody or to make arrangements for the care of the child;

(b) have failed to communicate with the child by mail, telephone, or otherwise for six months;

(c) failed to have shown the normal interest of a natural parent, without just cause; or

(d) have abandoned an infant, as described in Subsection 78A-6-316(1).

(2) In determining whether a parent or parents are unfit or have neglected a child the court shall consider, but is not limited to, the following circumstances, conduct, or conditions:

(a) emotional illness, mental illness, or mental deficiency of the parent that renders the parent unable to care for the immediate and continuing physical or emotional needs of the child for extended periods of time;

(b) conduct toward a child of a physically, emotionally, or sexually cruel or abusive nature;

(c) habitual or excessive use of intoxicating liquors, controlled substances, or dangerous drugs that render the parent unable to care for the child;

(d) repeated or continuous failure to provide the child with adequate food, clothing, shelter, education, or other care necessary for the child's physical, mental, and emotional health and development by a parent or parents who are capable of providing that care;

(e) whether the parent is incarcerated as a result of conviction of a felony, and the sentence is of such length that the child will be deprived of a normal home for more than one year;

(f) a history of violent behavior; or

(g) whether the parent has intentionally exposed the child to pornography or material harmful to a minor, as defined in Section 76-10-1201.

(3) Notwithstanding Subsection (2)(c), the court may not discriminate against a parent ~~[because of the]~~ or otherwise consider a parent's lawful possession or consumption of cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device, as those terms are defined in Section 26-61a-102, in accordance with Title 26,

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5994 Chapter ~~[60b]~~ 61a, Utah Medical Cannabis Act.

5995 (4) A parent who, legitimately practicing the parent's religious beliefs, does not provide
5996 specified medical treatment for a child is not, for that reason alone, a negligent or unfit parent.

5997 (5) (a) Notwithstanding Subsection (2), a parent may not be considered neglectful or
5998 unfit because of a health care decision made for a child by the child's parent unless the state or
5999 other party to the proceeding shows, by clear and convincing evidence, that the health care
6000 decision is not reasonable and informed.

6001 (b) Nothing in Subsection (5)(a) may prohibit a parent from exercising the right to
6002 obtain a second health care opinion.

6003 (6) If a child has been placed in the custody of the division and the parent or parents
6004 fail to comply substantially with the terms and conditions of a plan within six months after the
6005 date on which the child was placed or the plan was commenced, whichever occurs later, that
6006 failure to comply is evidence of failure of parental adjustment.

6007 (7) The following circumstances constitute prima facie evidence of unfitness:

6008 (a) sexual abuse, sexual exploitation, injury, or death of a sibling of the child, or of any
6009 child, due to known or substantiated abuse or neglect by the parent or parents;

6010 (b) conviction of a crime, if the facts surrounding the crime are of such a nature as to
6011 indicate the unfitness of the parent to provide adequate care to the extent necessary for the
6012 child's physical, mental, or emotional health and development;

6013 (c) a single incident of life-threatening or gravely disabling injury to or disfigurement
6014 of the child;

6015 (d) the parent has committed, aided, abetted, attempted, conspired, or solicited to
6016 commit murder or manslaughter of a child or child abuse homicide; or

6017 (e) the parent intentionally, knowingly, or recklessly causes the death of another parent
6018 of the child, without legal justification.

6019 Section 138. Section **78A-6-508 (Effective 07/01/19)** is amended to read:

6020 **78A-6-508 (Effective 07/01/19). Evidence of grounds for termination.**

6021 (1) In determining whether a parent or parents have abandoned a child, it is prima facie

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evidence of abandonment that the parent or parents:

(a) although having legal custody of the child, have surrendered physical custody of the child, and for a period of six months following the surrender have not manifested to the child or to the person having the physical custody of the child a firm intention to resume physical custody or to make arrangements for the care of the child;

(b) have failed to communicate with the child by mail, telephone, or otherwise for six months;

(c) failed to have shown the normal interest of a natural parent, without just cause; or

(d) have abandoned an infant, as described in Subsection 78A-6-316(1).

(2) In determining whether a parent or parents are unfit or have neglected a child the court shall consider, but is not limited to, the following circumstances, conduct, or conditions:

(a) emotional illness, mental illness, or mental deficiency of the parent that renders the parent unable to care for the immediate and continuing physical or emotional needs of the child for extended periods of time;

(b) conduct toward a child of a physically, emotionally, or sexually cruel or abusive nature;

(c) habitual or excessive use of intoxicating liquors, controlled substances, or dangerous drugs that render the parent unable to care for the child;

(d) repeated or continuous failure to provide the child with adequate food, clothing, shelter, education, or other care necessary for the child's physical, mental, and emotional health and development by a parent or parents who are capable of providing that care;

(e) whether the parent is incarcerated as a result of conviction of a felony, and the sentence is of such length that the child will be deprived of a normal home for more than one year;

(f) a history of violent behavior; or

(g) whether the parent has intentionally exposed the child to pornography or material harmful to a minor, as defined in Section 76-10-1201.

(3) Notwithstanding Subsection (2)(c), the court may not discriminate against a parent

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6050 because of or otherwise consider the parent's lawful possession or consumption of cannabis in a
6051 medicinal dosage form, a cannabis product, as those terms are defined in Section 26-61a-102 or
6052 a medical cannabis device, in accordance with Title 26, Chapter ~~60b~~ 61a, Utah Medical
6053 Cannabis Act.

6054 (4) A parent who, legitimately practicing the parent's religious beliefs, does not provide
6055 specified medical treatment for a child is not, for that reason alone, a negligent or unfit parent.

6056 (5) (a) Notwithstanding Subsection (2), a parent may not be considered neglectful or
6057 unfit because of a health care decision made for a child by the child's parent unless the state or
6058 other party to the proceeding shows, by clear and convincing evidence, that the health care
6059 decision is not reasonable and informed.

6060 (b) Nothing in Subsection (5)(a) may prohibit a parent from exercising the right to
6061 obtain a second health care opinion.

6062 (6) If a child has been placed in the custody of the division and the parent or parents
6063 fail to comply substantially with the terms and conditions of a plan within six months after the
6064 date on which the child was placed or the plan was commenced, whichever occurs later, that
6065 failure to comply is evidence of failure of parental adjustment.

6066 (7) The following circumstances constitute prima facie evidence of unfitness:

6067 (a) sexual abuse, sexual exploitation, injury, or death of a sibling of the child, or of any
6068 child, due to known or substantiated abuse or neglect by the parent or parents;

6069 (b) conviction of a crime, if the facts surrounding the crime are of such a nature as to
6070 indicate the unfitness of the parent to provide adequate care to the extent necessary for the
6071 child's physical, mental, or emotional health and development;

6072 (c) a single incident of life-threatening or gravely disabling injury to or disfigurement
6073 of the child;

6074 (d) the parent has committed, aided, abetted, attempted, conspired, or solicited to
6075 commit murder or manslaughter of a child or child abuse homicide; or

6076 (e) the parent intentionally, knowingly, or recklessly causes the death of another parent
6077 of the child, without legal justification.

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6078 Section 139. **Repealer.**
6079 This bill repeals:
6080 Section **4-41-201**, Title.
6081 Section **4-41-202**, Definitions.
6082 Section **4-41-203**, Department to cultivate cannabis.
6083 Section **4-41-301**, Department to establish a state dispensary.
6084 Section **4-41-302**, Labeling.
6085 Section **4-41-303**, Department to set prices.
6086 Section **4-41-304**, Department to make rules regarding purchasers, communication
6087 -- Report.
6088 Section **4-41b-104**, Preemption.
6089 Section **4-43-101** (Effective 07/01/19), Title.
6090 Section **4-43-102** (Effective 07/01/19), Definitions.
6091 Section **4-43-201** (Effective 07/01/19), Cannabidiol processor -- Cannabidiol
6092 laboratory -- License -- Renewal.
6093 Section **4-43-202** (Effective 07/01/19), Renewal.
6094 Section **4-43-203** (Effective 07/01/19), Bond required for license.
6095 Section **4-43-301** (Effective 07/01/19), Cannabidiol processor and laboratory
6096 agents.
6097 Section **4-43-401** (Effective 07/01/19), Cannabidiol processor or cannabidiol
6098 laboratory -- General operating requirements.
6099 Section **4-43-402** (Effective 07/01/19), Cannabidiol processor or cannabidiol
6100 laboratory -- Inspection by department.
6101 Section **4-43-501** (Effective 07/01/19), Cannabidiol processor -- Operating
6102 requirements.
6103 Section **4-43-502** (Effective 07/01/19), Cannabidiol product.
6104 Section **4-43-503** (Effective 07/01/19), Cannabidiol medicine -- Labeling and
6105 packaging.

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6106 Section **4-43-601** (Effective 07/01/19), Hemp and cannabidiol product testing.

6107 Section **4-43-602** (Effective 07/01/19), Reporting -- Inspections.

6108 Section **4-43-701** (Effective 07/01/19), Enforcement -- Fine -- Citation.

6109 Section **4-43-702** (Effective 07/01/19), Report to the Legislature.

6110 Section **4-43-703** (Effective 07/01/19), Fees -- Deposit into Cannabinoid Product

6111 **Restricted Account.**

6112 Section **4-43-801** (Effective 07/01/19), Cannabinoid Product Restricted Account --

6113 **Creation.**

6114 Section **26-60b-104**, Preemption.

6115 Section **58-67-808** (Effective 07/01/19), Recommendation of cannabidiol products.

6116 Section **58-68-808** (Effective 07/01/19), Recommendation of cannabidiol products.

6117 Section **58-85-103.5**, Right to request a recommendation for a cannabis-based

6118 **treatment.**

6119 Section **58-88-101** (Effective 07/01/19), Title.

6120 Section **58-88-102** (Effective 07/01/19), Definitions.

6121 Section **58-88-103** (Effective 07/01/19), Cannabidiol-qualified pharmacy

6122 **requirements.**

6123 Section **58-88-104** (Effective 07/01/19), Division to make rules -- Study.

6124 Section **59-12-104.7** (Repealed 01/01/19), Reporting by purchaser of certain sales

6125 **and use tax exempt purchases.**

6126 Section **59-12-104.9** (Effective 07/01/19), Exemption from sales tax for cannabinoid

6127 **products.**

6128 Section **59-29-101** (Effective 07/01/19), Title.

6129 Section **59-29-102** (Effective 07/01/19), Definitions.

6130 Section **59-29-103** (Effective 07/01/19), Imposition of tax -- Rate -- Administration.

6131 Section **59-29-104** (Effective 07/01/19), Collection of tax.

6132 Section **59-29-105** (Effective 07/01/19), Deposit of tax revenue.

6133 Section **59-29-106** (Effective 07/01/19), Records.

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6134 Section **59-29-107** (Effective 07/01/19), **Rulemaking authority.**

6135 Section **59-29-108** (Effective 07/01/19), **Penalties and interest.**

6136 Section 140. **Effective date.**

6137 (1) Except as provided in Subsection (2), if approved by two-thirds of all the members
6138 elected to each house, this bill takes effect upon approval by the governor, or the day following
6139 the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's
6140 signature, or in the case of a veto, the date of veto override.

6141 (2) The amendments to Sections [26-65-102](#) (Effective (07/01/19), [26-65-103](#) (Effective
6142 07/01/19), [41-6a-517](#) (Effective 07/01/19), [58-37-3.6](#) (Effective 07/01/19), and [78A-6-508](#)
6143 (Effective 07/01/19) in this bill take effect on July 1, 2019.

6144 Section 141. **Revisor instructions.**

6145 The Legislature intends that the Office of Legislative Research and General Counsel, in
6146 preparing the Utah Code database for publication:

6147 (1) in Sections [4-41a-106](#) and [26-61a-114](#) replace the language from "this bill" with
6148 the bill's designated chapter number in the Laws of Utah; and

6149 (2) in Sections [4-41a-201](#), [4-41a-301](#), [4-41a-401](#), [26-61a-202](#), [26-61a-301](#), [26-61a-401](#),
6150 [26-61a-602](#), and [26-61a-606](#), replace the language from "the effective date of this bill" to the
6151 bill's actual effective date.

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